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Government Organization
(Chapters 7 to End)

to

Title 2

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(Chapters 1 to 5)

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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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Subchapter III. Establishment of Replacement Retirement and Disability Benefits Plans.

§ 1-905.03. Tax treatment of plan.

The replacement plan described in § 1-905.01 shall be deemed a "governmental plan" as defined in section 414(d) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.) ("Internal Revenue Code"), which is intended to qualify under section 401(a) of the Internal Revenue Code, and all benefits provided from the replacement plan shall be deemed governmental plan benefits maintained by the District.

(Sept. 18, 1998, D.C. Law 12-152, § 123, 45 DCR 4045; Oct. 20, 1999, D.C. Law 13-38, § 1002, 46 DCR 6373; May 1, 2013, D.C. Law 19-308, § 2(a), 60 DCR 3386.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-308 rewrote the section.

Temporary Amendment of Section. — Section 2(a) of D.C. Law 19-309 rewrote this section to read as follows:

"The replacement plan described in section 121 shall be deemed a 'governmental plan' as defined in section 414(d) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.) ('Internal Revenue Code'), which is intended to qualify under section 401(a) of the Internal Revenue Code, and all benefits provided from the re-

placement plan shall be deemed governmental plan benefits maintained by the District."

Section 4(b) of D.C. Law 19-309 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary amendment of section, see § 2(a) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 Emergency Amendment Act of 2012 (D.C. Act 19-583, December 22, 2012, 60 DCR 132).

For temporary (90 days) amendment of this section, see § 2(a) of the Police, Fire Fighters, Teachers Retirement Benefit Replacement Act of 1998 Congressional Review Emergency Act of 2013 (D.C. Act 20-35, March 19, 2013, 60 DCR 4646, 20 DCSTAT 508).

Legislative history of Law 19-308. — Law 19-308, the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-1018. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-675 and transmitted to Congress for its review. D.C. Law 19-308 became effective on May 1, 2013.

Subchapter IV. Financing of Retirement Benefits.

§ 1-907.03. Calculation of District of Columbia payment to the Funds.

(a)(1) When specified in paragraph (2) of this subsection, the Retirement Board shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to § 1-732(a)(4)(A), to make the following determinations as of a specified date on the basis of the entry age normal funding method and in accordance with generally accepted actuarial principles and practices with respect to each separate fund comprising the Funds:

(A) The normal cost, determined as a level percentage of covered annual payroll;

(B) The unfunded accrued liability payment; which, for the purposes of this section, means the level amount or the level percentage of covered annual payroll that, when contributed annually to the Funds for a period of not greater than 30 years, would be sufficient to fund the liability for benefits accrued by participants as of the valuation date ("accrued liability") in excess of the current value of assets of the Funds ("unfunded accrued liability");

(C) The current value of the assets in the Funds;

(D) The estimated covered annual payroll; and

(E) Such additional information as the Retirement Board may need to make the determinations specified in paragraph (4) of this subsection and in subsection (b) of this section.

(2) Unless the actuary engaged by the Retirement Board pursuant to paragraph (1) of this subsection determines that a more frequent valuation is necessary to support the actuary's opinion, the actuary shall make the determinations described in paragraph (1) of this subsection upon the request of the Retirement Board and at least once every 2 years.

(3) On the basis of the most recent determinations made under paragraph (1) of this subsection, the enrolled actuary shall certify to the Retirement Board each year, at a time specified by the Retirement Board, the following information for the next fiscal year with respect to each separate fund comprising the Funds:

(A) The normal cost;

(B) The present value of future benefits payable from the Funds for covered employees as of the valuation date;

(C) The unfunded accrued liability payment;

(D) The current value of assets as of the valuation date; and

(E) The value of assets used in developing the amortization of unfunded accrued liability payment.

(4) On the basis of the most recent certification submitted by the enrolled actuary under paragraph (3) of this subsection, the Retirement Board shall certify the sum of the normal cost and the unfunded accrued liability payment ("amount of the District payment") for the next fiscal year for each separate fund comprising the Funds.

(b)(1) On the basis of the most recent determinations made under subsection (a)(4) of this section, the Retirement Board shall, no fewer than 30 days before the date on which the Mayor is required to submit the annual budget for the District of Columbia government to the Council, pursuant to § 1-204.42, certify to the Mayor and the Council the amount of the District payment for each separate fund comprising the Funds.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to § 1-204.42, and the Council, in adopting each annual budget in accordance with § 1-204.46, shall, for each separate fund comprising the Funds, include in the budget no less than the amount of the District payment for each separate fund comprising the Funds certified by the Retirement Board under paragraph (1) of this subsection. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Retirement Board.

(c)(1) Before the enactment of any law, resolution, regulation, rule, or agreement producing any change in benefits under a retirement program, the Mayor shall engage and pay for an enrolled actuary, who may be the enrolled actuary engaged pursuant to § 1-732(a)(4)(A), to estimate the effect of that change in benefits over the next 5 fiscal years on the:

(A) Accrued liability of the retirement program;

(B) Unfunded accrued liability of the retirement program;

(C) Unfunded accrued liability payment with respect to the retirement program; and

(D) Normal cost with respect to the retirement program.

(2) Whenever any change in benefits under a retirement program pursuant to this subsection is made to either, but not both, the Metropolitan Police Department or the Fire and Emergency Medical Services Department, the Mayor shall engage an enrolled actuary to perform the same study contemporaneously for the employee group for which the change was not made.

(d) The Mayor shall transmit the estimates of the actuary to the Retirement Board, the Secretary of the Treasury, and the Council, and the change in benefits shall not become effective until the end of a 30-day period of review, which shall begin on the date that the 3 required transmittals have been effected.

(Sept. 18, 1998, D.C. Law 12-152, § 133, 45 DCR 4045; Oct. 1, 2002, D.C. Law

14-190, § 3742, 49 DCR 6968; Apr. 13, 2005, D.C. Law 15-354, § 4(b), 52 DCR 2638; Sept. 20, 2012, D.C. Law 19-168, § 1062, 59 DCR 8025.)

Section references. — This section is referenced in § 1-610.76, § 1-903.06, § 1-907.02, § 1-907.05, § 1-909.02, and § 5-704.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote the section.

Emergency legislation.

For temporary (90 day) amendment of section, see § 1062 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1063 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1062 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) addition of section, see § 1063 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter VI. Miscellaneous.

§ 1-911.03. Alienation of benefits.

Benefits of the retirement programs provided for in this chapter shall not be assigned or alienated, except to the extent expressly permitted by this chapter or by another applicable law and with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the Retirement Board.

(Sept. 18, 1998, D.C. Law 12-152, § 203, 45 DCR 4045; May 1, 2013, D.C. Law 19-308, § 2(b), 60 DCR 3386.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-308 rewrote the section, which read: "Benefits of the retirement programs provided for herein shall not be assigned or alienated, except to the extent expressly permitted by this chapter or by another applicable law."

Temporary Amendment of Section. — Section 2(b) of D.C. Law 19-309 rewrote this section to read as follows:

"Benefits of the retirement programs provided for in this act shall not be assigned or alienated, except to the extent expressly permitted by this act or by another applicable law and with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the Retirement Board."

Section 4(b) of D.C. Law 19-309 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 2(b) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 Emergency Amendment Act of 2012 (D.C. Act 19-583, December 22, 2012, 60 DCR 132).

For temporary (90 days) amendment of this section, see § 2(b) of the Police, Fire Fighters, Teachers Retirement Benefit Replacement Act of 1998 Congressional Review Emergency Act of 2013 (D.C. Act 20-35, March 19, 2013, 60 DCR 4646, 20 DCSTAT 508).

Legislative history of Law 19-308. — See note to § 1-905.03.

CHAPTER 10. ELECTIONS.

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Subchapter I. Regulation of Elections.

§ 1-1001.02. Definitions.

For the purposes of this subchapter:

(1) The term "District" means the District of Columbia.

(2) The term "qualified elector" means a person who:

(A) Is at least 17 years of age and who will be 18 years of age on or before the next general election;

(B) Is a citizen of the United States;

(C) Has maintained a residence in the District for at least 30 days preceding the next election and does not claim voting residence or right to vote in any state or territory;

(D) Is not incarcerated for a crime that is a felony in the District; and

(E) Has not been found by a court of law to be legally incompetent to vote.

(3) The term "Board" means the District of Columbia Board of Elections provided for by § 1-1001.03.

(4) The term "ward" means an election ward established by the Council.

(5) The term "Board of Education" means the Board of Education of the District.

(6) The term "Delegate" means the Delegate to the House of Representatives from the District of Columbia.

(7) The term "felony" includes any crime committed in the District of Columbia referred to in §§ 1-1001.14, 1-1162.32, and 1-1163.35.

(8) The term "Council" or "Council of the District of Columbia" means the Council of the District of Columbia established pursuant to the District of Columbia Home Rule Act [§ 1-201.01 et seq.].

(9) The term "Mayor" means the Office of Mayor of the District of Columbia established pursuant to the District of Columbia Home Rule Act [§ 1-202.01 et seq.].

(9A) The term "Attorney General" or "Attorney General for the District of Columbia" means the Attorney General for the District of Columbia provided for by part D-i of subchapter I of Chapter 3 [§ 1-301.81 et seq.] and § 1-204.35.

(10) The term "initiative" means the process by which the electors of the District of Columbia may propose laws (except laws appropriating funds) and present such proposed laws directly to the registered qualified electors of the District of Columbia for their approval or disapproval.

(11) The term "referendum" means the process by which the registered qualified electors of the District of Columbia may suspend acts, or some part or parts of acts, of the Council of the District of Columbia (except emergency acts, acts levying taxes, or acts appropriating funds for the general operating budget) until such acts or part or parts of acts have been presented to the registered qualified electors of the District of Columbia for their approval or rejection.

(12) The term "recall" means the process by which the registered qualified electors of the District of Columbia may call for the holding of an election to remove or retain an elected official of the District of Columbia (except the Delegate to Congress for the District of Columbia) prior to the expiration of his or her term.

(13) The term "elected official" means the Mayor, the Chairman and members of the Council, the Attorney General, the President and members of the Board of Education, the Delegate to Congress for the District of Columbia, United States Senator and Representative, and advisory neighborhood commissioners of the District of Columbia.

(14) The term "printed" shall include any document produced by letterpress, offset press, photo reproduction, multilith, or other mass reproduction means.

(15) The term "proposer" means one or more of the registered qualified electors of the District of Columbia, including any entity, the primary purpose of which is the success or defeat of a political party or principle, or any question submitted to vote at a public election by means of an initiative, referendum or recall as authorized in amendments numbered 1 and 2 to Title IV of the Home

Rule Act (§§ 1-204.101 to 1-204.115). Such entities shall be treated as a political committee as defined in § 1-1161.01(44) for purposes of this subchapter.

(16)(A) The term "residence," for purposes of voting, means the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which the person's habitation is fixed and to which a person, whenever he or she is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of the absence.

(B) In determining what is a principal or primary place of abode of a person the following circumstances relating to the person may be taken into account:

(i) Business pursuits;
(ii) Employment;
(iii) Income sources;
(iv) Residence for income or other tax purposes;
(v) Residence of parents, spouse, and children;
(vi) Leaseholds;
(vii) Situs of personal and real property; and
(viii) Motor vehicle registration.

(C) A qualified elector who has left his or her home and gone into another state or territory for a temporary purpose only shall not be considered to have lost his or her residence in the District.

(D) If a qualified elector moves to another state or territory with the intention of making it his or her permanent home, he or she shall notify the Board, in writing, and shall be considered to have lost residence in the District.

(E) No person shall be deemed to have gained or lost a residence by reason of absence while employed in the service of the District or the United States governments, while a student at any institution of learning, while kept at any institution at public expense, or while absent from the District with the intent to have the District remain his or her residence. If a person is absent from the District, but intends to maintain residence in the District for voting purposes, he or she shall not register to vote in any other state or territory during his or her absence.

(17) The term "voter registration agency" means an office designated under § 1-1001.07(d)(1) and the National Voter Registration Act of 1993 to perform voter registration activities.

(18) The term "application distribution agency" means an agency designated under § 1-1001.07(d)(14) in whose office or offices mail voter registration applications are made available for general distribution to the public.

(19) The term "duly registered voter" means a registered voter who resides at the address listed on the Board's records.

(20) The term "registered qualified elector" means a registered voter who resides at the address listed on the Board's records.

(21) The term "qualified registered elector" means a registered voter who resides at the address listed on the Board's records.

(22) The term "voting system" means:

(A) The combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment used to:

(i) Define ballots;

(ii) Cast and count votes;

(iii) Report or display elections results; and

(iv) Maintain and produce a permanent record; and

(B) The practices and documentation used to:

(i) Identify system components and versions of components;

(ii) Test the system during its development and maintenance;

(iii) Maintain records of system errors and defects;

(iv) Determine necessary system changes after the initial qualification of the system; and

(v) Provide voters with notices, instructions, forms, paper ballots, or other materials.

(23) The term "Help America Vote Act of 2002" means the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C. § 15301 et seq.).

(24) The term "gender identity or expression" shall have the same meaning as provided in § 2-1401.02(12A).

(25) "Election observers" means persons who witness the administration of elections, including individuals representing nonpartisan domestic and international organizations, including voting rights organizations, civil rights organizations, and civic organizations.

(26) "Qualified petition circulator" means an individual who is 18 years of age or older and either:

(A) A District resident; or

(B) A resident of another jurisdiction who has registered with the Board as a petition circulator and consented to being subject to the subpoena power of the Board and the jurisdiction of the Superior Court of the District of Columbia for the enforcement of subpoenas without respect to the individual's place of residence.

(Aug. 12, 1955, 69 Stat. 699, ch. 862, § 2; Oct. 4, 1961, 75 Stat. 820, Pub. L. 87-389, § 1(26); Apr. 22, 1968, 82 Stat. 103, Pub. L. 90-292, § 4(2); Sept. 22, 1970, 84 Stat. 849, Pub. L. 91-405, title II, §§ 203(a), 205(a); Dec. 23, 1971, 85 Stat. 788, Pub. L. 92-220, § 1(2)-(4); Aug. 14, 1973, 87 Stat. 311, Pub. L. 93-92, § 1(1); Dec. 24, 1973, 87 Stat. 832, Pub. L. 93-198, title VII, § 751(2); Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306(a); Sept. 2, 1976, D.C. Law 1-79, title I, § 102(1), title VI, § 602, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 301(a), (b), 24 DCR 2372; June 7, 1979, D.C. Law 3-1, § 2(a), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 2(b), 29 DCR 458; Aug. 2, 1983, D.C. Law 5-17, § 5(a), 30 DCR 3196; Sept. 22, 1994, D.C. Law 10-173, § 2(a), 41 DCR 5154; July 25, 1995, D.C. Law 11-30, § 2(a), 42 DCR 1547; Apr. 12, 2000, D.C. Law 13-91, § 123(a), 47 DCR 520; Dec. 7, 2004, D.C. Law 15-218, § 2(a), 51 DCR 9132; June 25, 2008, D.C. Law 17-177, § 4(a), 55 DCR 3696; Feb. 4, 2010, D.C. Law 18-103, § 2(a), 56 DCR 9169); May 27, 2010, D.C. Law

18-160,§ 131(b), 57 DCR 3012; Apr. 27, 2012, D.C. Law 19-124, § 501(g)(1), 59 DCR 1862; Oct. 17, 2013, D.C. Law 20-31, § 2(a), 60 DCR 11535.)

Section references. — This section is referenced in § 1-301.83, § 1-309.09, § 1-401, § 1-1001.07, and § 38-2651.

Effect of amendments.

The 2013 amendment by D.C. Law 20-31 added (26).

Legislative history of Law 20-31. — Law 20-31, the "Board of Elections Petition Circulation Requirements Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-245. The Bill was adopted on first and second readings on June 26, 2013, and July 10, 2013, respectively. Signed by the Mayor on July 30, 2013, it was assigned Act No. 20-134 and transmitted to Congress for its review. D.C. Law 20-31 became effective on October 17, 2013.

§ 1-1001.04. Board of Elections — Qualifications; prohibited activities; compensation; removal; time for filling vacancy.

(a) When appointing a member of the Board, the Mayor and Council shall consider whether the individual possesses demonstrated integrity, independence, and public credibility and whether the individual has particular knowledge, training, or experience in government ethics or in elections law and procedure. A person shall not be a member of the Board unless he or she:

(1) Is a duly registered voter;

(2) Has resided in the District continuously since the beginning of the 3-year period ending on the day he or she is appointed; and

(3) Holds no other paid office or employment in the District government and no active office, position, or employment in the federal government.

(b) No person, while a member of the Board, shall:

(1) Campaign for any other public office;

(2) Hold any office in any political party or political committee;

(3) Participate in or contribute to any political campaign of any candidate in any election held under this subchapter;

(3A) Be an officer or a director of an organization receiving District funds, or an employee of an organization receiving District funds, who has managerial or discretionary responsibilities with respect to those funds;

(4) Act in his or her capacity as a member, to directly or indirectly attempt to influence any decision of a District government agency, department, or instrumentality relating to any action which is beyond the jurisdiction of the Board; or

(5) Be convicted of having committed a felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be a felony in the District of Columbia.

(c) Each member of the Board, including the Chairman, shall receive compensation as provided in § 1-611.08(c)(2).

(d)(1) The Mayor may remove any member of the Board who engages in any activity prohibited by subsection (a) or (b) of this section, and appoint a new member to serve until the expiration of the term of the member so removed. When the Mayor believes that any member has engaged in any such activity he or she shall notify such member, in writing, of the charge against him or her and that such member has 7 days in which to request a hearing before the

Council on such charge. If such member fails to request a hearing within 7 days after receiving such notice then the Mayor may remove such member and appoint a new member.

(2) The hearing requested by a member may be either open or closed, as requested by such member. In the event such hearing is closed, the vote of the Council as a result of such hearing shall be taken at an open meeting of the Council. The Council shall begin such hearings within 60 calendar days after receiving notice from the Mayor indicating that a member has requested such a hearing. If two-thirds of the Council vote to remove such member then such member shall be removed.

(e) Any vacancy occurring on the Board shall be filled within 45 days after the occurrence of such vacancy, excluding Saturdays, Sundays, and holidays.

(Aug. 12, 1955, 69 Stat. 699, ch. 862, § 4; Sept. 22, 1970, 84 Stat. 854, Pub. L. 91-405, title II, § 205(i); Dec. 23, 1971, 85 Stat. 794, Pub. L. 92-220, § 1(26); Aug. 14, 1974, 88 Stat. 471, Pub. L. 93-376, title VII, § 706(b); Sept. 2, 1976, D.C. Law 1-79, title I, § 102(3), (4), 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title I, § 103(a), title IV, § 402, 24 DCR 2372; Mar. 10, 1978, D.C. Law 2-50, § 2, 24 DCR 4806; Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 3, 1979, D.C. Law 2-139, § 3205(v), 25 DCR 5740; Aug. 7, 1980, D.C. Law 3-81, § 2(gg), 27 DCR 2632; Mar. 16, 1982, D.C. Law 4-88, § 2(n), (q), (s), 29 DCR 458; Feb. 4, 2010, D.C. Law 18-103, § 2(b), 56 DCR 9169; Apr. 27, 2012, D.C. Law 19-124, § 501(g)(3), 59 DCR 1862; Sept. 20, 2012, D.C. Law 19-168, § 1133, 59 DCR 8025.)

Section references. — This section is referenced in § 1-636.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (c).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 1-1001.05. Board of Elections — Duties.

(a) The Board shall:

(1) Accurately maintain a uniform, interactive computerized voter registration list which shall serve as the official voter registration list for all elections in the District, and shall contain the name, registration information, and a unique identifier assigned for every registered voter in the District. The voter registration list shall be administered pursuant to the Help America Vote Act of 2002 and pertinent federal and local law, and shall be coordinated with other District agency databases;

(2) Take whatever action is necessary and appropriate to actively locate, identify, and register qualified voters;

(3) Conduct elections;

(4) Provide for recording and counting votes by means of ballots or machines or both;

(5) Publish in the District of Columbia Register no later than 45 days

before each election held under this subchapter, a fictitious name sample design and layout of the ballot to be used in the election. This requirement shall not apply to any special election to fill a vacancy in an Advisory Neighborhood Commission single-member district;

(6) Publish in 1 or more newspapers of general circulation in the District, a sample copy of the official ballot to be used in any such election, provided, however, nothing contained herein shall require the publication of a sample copy of the official ballots to be used in the advisory neighborhood commissions' elections;

(7) Publish in the District of Columbia Register on the 3rd Friday of every month, the total number of qualified electors registered to vote in the District as of the last day of the month preceding publication. Such notice shall be broken down by ward and political party affiliation, where applicable, and shall list the total number of new registrants, party changes, cancellations, changes of names, and/or addresses processed under each category;

(8) Divide the District into appropriate voting precincts, each of which shall contain at least 350 registered persons; draw precinct lines within election wards created by the Council, subject to the approval of the Council, in whole or in part, by resolution;

(9) Operate polling places;

(10) Provide information regarding procedures for voter registration and absentee ballots to absent uniformed services voters and overseas voters in United States elections, accept valid voter registration applications, absentee ballot applications, and absentee ballots including write-in ballots from all of those voters, and comply with the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1873ff et seq.);

(11) Certify nominees and the results of elections;

(12) Take all reasonable steps to inform all residents and voters of elections and means of casting votes therein;

(13) Repealed;

(14) Issue such regulations and expressly delegate authority to officials and employees of the Board (such delegations of authority only to be effective upon publication in the District of Columbia Register) as are necessary to carry out the purposes of this subchapter, Chapter 11A of this title, subchapter VII of this chapter, and related acts requiring implementation by the Board. The regulations authorized by this paragraph include those necessary to: Determine that candidates meet the statutory qualifications for office; define the form of petitions; establish rules for the circulation and filing of petitions; establish criteria to determine the validity of signatures on petitions; and provide for the registration of any political party seeking to nominate directly candidates in any general or special election;

(15) Take reasonable steps to facilitate voting by blind persons and persons with physical and developmental disabilities, qualified to vote under this subchapter, and to authorize such persons to cast a ballot with the assistance of a person of their own choosing;

(15A) At the request of a candidate, consider what action, if any, should be taken to clarify the identity of a candidate if there is potential for confusion

among voters about the identity of a candidate because of the similarity of his or her name to another candidate or elected official;

(16) Perform such other duties as are imposed upon it by this subchapter; and

(17) Perform duties imposed upon it by subchapter VII of this chapter.

(a-1)(1) The Board shall hold regular monthly meetings in accordance with a schedule to be established by the Board. Additional meetings may be called as needed by the Board. Except in the case of an emergency, the Board shall provide at least 48 hours notice of any additional meeting.

(2) The Board shall make available for public inspection and post on its website a proposed agenda for each Board meeting as soon as practicable, but in any event at least 24 hours before a meeting. Copies of the agenda shall be available to the public at the meeting. The Board, according to its rules, may amend the agenda at the meeting.

(3) All meetings of the Board shall be open to the public, unless the members vote to enter into executive session. The Board shall not vote, make resolutions or rulings, or take any actions of any kind during executive session, except those that:

(A) Relate solely to the internal personnel rules or practices of the Board;

(B) Would result in the disclosure of matters specifically exempted from disclosure by statute; provided, that the statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(C) Would result in the disclosure of trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(D) Involve accusing any person of a crime or formally censuring any person;

(E) Would result in the disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(F) Would result in the disclosure of investigatory records compiled for law enforcement purposes or information which, if written, would be contained in the records, but only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy; or

(iv) Disclose investigative techniques and procedures; or

(G) Specifically concern the Board's issuance of a subpoena, the Board's participation in a civil action or proceeding, or disposition by the Board of a particular matter involving a determination on the record after opportunity for a hearing.

(4) The Board shall keep the minutes of each meeting of the Board and shall make the minutes of each meeting available to the public for inspection

and distribution, and shall post the minutes on the Board's website, as soon as practicable, but in all cases before the next regularly scheduled meeting.

(b)(1) The Board shall, on the 1st Tuesday in April of each presidential election year, conduct a presidential preference primary election within the District of Columbia in which the registered qualified voters therein may express their preference for candidates of each political party of the District of Columbia for nomination for President.

(2) No person shall be listed on the ballot as a candidate for nomination for President in such primary unless there shall have been filed with the Board no later than 90 days before the date of such presidential primary election a petition on behalf of his or her candidacy signed by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who are registered under § 1-1001.07, and of the same political party as the nominee.

(3)(A) Candidates for delegate and alternates where permitted by political party rules to a particular political party national convention convened to nominate that party's candidate for President shall be listed on the ballot of the presidential preference primary held under this subchapter as:

(i) Full slates of candidates for delegates supporting a candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such slate's candidacy signed by the candidates on the slate, and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who are registered under § 1-1001.07 and are of the same political party as the candidates on such slate;

(ii) Full slates of candidates for delegates not committed to support any named candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such slate's candidacy, signed by the candidates on the slate and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who have registered under § 1-1001.07 and are of the same political party as the candidates on such slate;

(iii) An individual candidate for delegate supporting a candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such candidate, signed by the candidate and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who have registered under § 1-1001.07 and are of the same political party as the candidate; or

(iv) An individual not committed to support any named candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such candidate, signed by the candidate and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who have registered under § 1-1001.07 and are of the same political party as the candidate.

(B) No candidate for delegate or alternate may be listed on the ballot unless such candidate was properly selected according to the rules of his

political party relating to the nomination of candidates for delegate or alternate.

(C) The governing body of each eligible party shall file with the Board, no later than 180 days prior to the presidential preference primary election:

(i) Notification of that party's intent to conduct a presidential preference primary; and

(ii) A plan for the election detailing the procedures to be followed in the selection of individual delegates and alternates to the convention of that party, including procedures for the selection of committed and uncommitted delegates.

(4) The Board shall:

(A) Arrange the ballot for the presidential preference primary so as to enable each voter to indicate his or her choice for presidential nominee and for the slate of delegates and alternates pledged to support that prospective nominee with 1 mark, and provide an alternative to vote for individual delegates or uncommitted slates of delegates; and

(B) Clearly indicate on the ballot the candidate for nomination for President which a slate or candidate for delegate supports, or name of the person who shall manage an uncommitted slate of delegates.

(5) The delegates and alternates, of each political party in the District of Columbia to the national convention of that party convened for the nomination of that party for President, elected in accordance with this subchapter, shall only be obliged to vote for the candidate whom he or she has been selected to represent in accordance with properly promulgated rules of the political party, on the 1st ballot cast at the convention for nominees for President, or until such time as such candidate to whom the delegate is committed withdraws his candidacy, whichever 1st occurs.

(c) Each member of the Board and persons authorized by the Board may administer oaths to persons executing affidavits pursuant to § 1-1001.08. It may provide for the administering of such other oaths as it considers appropriate to require in the performance of its functions.

(d) The Board may permit either persons temporarily absent from the District or persons physically unable to appear personally at an official registration place to register for the purpose of voting in any election held under this subchapter.

(e)(1)(A) The Board shall select, employ, and fix the compensation for an Executive Director and such staff the Board deems necessary, subject to the pay limitations of § 1-611.16. The Executive Director shall serve at the pleasure of the Board. The Board, at the request of the Director of Campaign Finance, shall provide employees, subject to the compensation provisions of this paragraph, as requested to carry out the powers and duties of the Director. Employees assigned to the Director shall, while so assigned, be under the direction and control of the Director and may not be reassigned without the concurrence of the Director.

(B) The Executive Director shall be a District resident throughout his or her term and failure to maintain District residency shall result in a forfeiture of the position.

(C) Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the Board unless the applicant declines the preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit proof of residency upon employment in a manner determined by the Board. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of bona fide residency annually to the director of personnel of the Board for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The Board shall submit to the Mayor and Council annual reports detailing the names of all new employees, their pay schedules, titles, and place of residence.

(2) No provision of this subchapter shall be construed as permitting the Board to appoint any personnel who are not full-time paid employees of the Board to preliminarily determine alleged violations of the law affecting elections, conflicts of interest, or lobbying.

(3) The Board may appoint a General Counsel to serve at the pleasure of the Board. The General Counsel shall be entitled to receive compensation at the same rate as the Executive Director of the Board and shall be responsible solely to the Board. The General Counsel shall perform such duties as may be delegated or assigned to him or her by rule or order of the Board.

(4)(A) The Board shall select, appoint, and fix the compensation of temporary election workers to operate the polling places, including precinct captains who shall oversee the operations of polling places in accordance with rules prescribed by the Board, and polling place workers who shall assist the precinct captains. Precinct captains shall be qualified registered electors in the District. Polling place workers shall be qualified registered electors in the District; provided, that the Board may also appoint as polling place workers individuals who are at least 16 years of age on the day that they are working in this capacity, who reside in the District of Columbia, and who are enrolled in or have graduated from a public or private secondary school or an institution of higher education. Any polling place worker shall be required to:

(i) Complete at least 4 hours of training;

(ii) Receive certification as a polling place worker under standards that the Board shall promulgate; and

(iii) Take and sign an oath of office to honestly, faithfully, and promptly perform the duties of office.

(B) The Board shall establish standards to measure the performance of polling place workers, including the past performance of a polling place worker, and shall consider the polling place worker's past performance before appointing him or her to work as a polling place worker in a subsequent election.

(f)(1) The Board shall prescribe such regulations as may be necessary to ensure that all persons responsible for the proper administration of this subchapter maintain a position of strict impartiality and refrain from any activity which would imply support or opposition to:

(A) A candidate or group of candidates for office in the District of Columbia; or

(B) Any political party or political committee.

(2) As used in this subsection, the terms "office," "political party," and "political committee" shall have the same meaning as that prescribed in § 1-1161.01.

(g) Notwithstanding provisions of the District of Columbia Administrative Procedure Act (§ 2-501 et seq.), the Board may hear any case brought before it under this subchapter or under Chapter 11A of this title by 1 member panels. An appeal from a decision of any such 1 member panel may be taken to either the full Board or to the District of Columbia Court of Appeals, at the option of any adversely affected party. If appeal is taken directly to the District of Columbia Court of Appeals, the decision of a 1 member panel shall be, for purposes of such appeal, considered to be a final decision of the Board. If an appeal is taken from a decision of a 1 member panel to the full Board, the decision of the 1 member panel shall be stayed pending a final decision of the Board. The Board may, upon a vote of the majority of its members, hear de novo all issues of fact or law relating to an appeal of a decision of a 1 member panel, except the Board may decide to consider only the record made before such 1 member panel. A final decision of the full Board, relating to an appeal brought to it from a 1 member panel, shall be appealable to the District of Columbia Court of Appeals in the same manner and to the same extent as all other final decisions of the Board.

(h)(1) The Board, pursuant to regulations of general applicability, shall have the power to:

(A) Require by subpoena the attendance and testimony of witnesses and the production of documents relating to the execution of the Board's duties; and

(B) Order that testimony in any proceeding or investigation be taken by deposition before any person who is designated by the Board, and has the power to administer oaths and, in these instances, to compel the attendance and testimony of witnesses and the production of documents by subpoena.

(2) The Board may petition the Superior Court of the District of Columbia to enforce the subpoena or order, in the case of a refusal to obey a subpoena or order of the Board issued pursuant to this subsection. Any person failing to obey the Court's order may be held in contempt of court.

(i) The Board shall cause the following information to be posted at each polling place on the day of each election for federal office:

(1) A sample version of the ballot that will be used for the election;

(2) The election and the hours during which polling places will be open;

(3) Instructions on the proper manner of completing a ballot, including a special ballot;

(4) Instructions for mail-in registrants and first-time voters under section 303(b) of the Help America Vote Act of 2002 [42 U.S.C. § 15483(b)];

(5) General information on voting rights under applicable federal and District laws, including the right to cast a special ballot and instructions to contact the appropriate officials if these rights are alleged to have been violated, and;

(6) General information on federal and District law regarding prohibitions on acts of voter fraud and misrepresentation.

(j) Not later than 90 days after the date of each regularly scheduled general election for federal office, the Board shall submit to the Mayor a report, in the format established by the United States Election Assistance Commission, on the number of absentee ballots sent to absent uniformed services voters and overseas voters for the election and the number of ballots which were returned by those voters to the Board. The report shall be transmitted by the Mayor to the United States Election Assistance Commission, and shall be made available to the general public.

(k) Within 90 days following a general election, the Board shall publish on its website an after-action report. The report shall include the following information:

(1) The total number of votes cast, broken down by type of ballot, and including the number of spoiled ballots and special ballots that were not counted;

(2) The number of persons registered:

(A) More than 30 days preceding the election;

(B) Between 30 days preceding the election and the date of the election; and

(C) On the date of the election;

(3) The number of polling place workers, by precinct;

(4) Copies of any unofficial summary reports generated by the Board on election night;

(5) A synopsis of any issues identified in precinct captain or area representative logs;

(6) Performance measurement data of polling place workers;

(7) A description of any irregularities experienced on election day; and

(8) Any other information considered relevant by the Board.

(Aug. 12, 1955, 69 Stat. 700, ch. 862, § 5; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1(3), (4), (5), (6); Apr. 22, 1968, 82 Stat. 103, Pub. L. 90-292, § 4(3); Dec. 23, 1971, 85 Stat. 789, Pub. L. 92-220, § 1(5)-(7), (28), (29); Aug. 14, 1973, 87 Stat. 311, Pub. L. 93-92, § 1(2)-(7); Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 13; Dec. 16, 1975, D.C. Law 1-37, § 2(1), (2), 22 DCR 3426; Dec. 16, 1975, D.C. Law 1-38, § 4, 22 DCR 3433; Feb. 17, 1976, D.C. Law 1-45, § 2, 22 DCR 4678; Sept. 2, 1976, D.C. Law 1-79, title I, § 102(5), (6), title V, §§ 502, 503, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title I, § 103(b), title III, § 301(c)-(f), title IV, § 402, 24 DCR 2372; June 28, 1977, D.C. Law 2-12, § 6(j), 24 DCR 1442; Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 3, 1979, D.C. Law 2-139, § 3205(v), 25 DCR 5740; Oct. 8, 1981, D.C. Law 4-35, § 3, 28 DCR 3376; Mar. 16, 1982, D.C. Law 4-88, § 2(d), (p), (q), 29 DCR 458; July 1, 1982, D.C. Law 4-120, § 2(a), 29 DCR 2064; Aug. 2, 1983, D.C. Law 5-17, § 5(b), 30 DCR 3196; Oct. 9, 1987, D.C. Law 7-36, § 3, 34 DCR 5321; Mar. 16, 1988, D.C. Law 7-92, § 3(a)-(c), 35 DCR 716; Mar. 11, 1992, D.C. Law 9-75, § 2(a), 39 DCR 310; Oct. 20, 1999, D.C. Law 13-40, § 2, 46 DCR 6550; June 21, 2003, D.C. Law 15-18, § 2(a), 50 DCR 3389; Sept. 30, 2004, D.C. Law 15-188,

§ 2, 51 DCR 6732; Dec. 7, 2004, D.C. Law 15-218, § 2(b), 51 DCR 9132; Apr. 7, 2006, D.C. Law 16-91, § 127(a), 52 DCR 10637; Apr. 24, 2007, D.C. Law 16-305, § 6(a), 53 DCR 6198; Oct. 18, 2007, D.C. Law 17-26, § 2(b), 54 DCR 8018; Feb. 6, 2008, D.C. Law 17-108, § 205, 54 DCR 10993; Feb. 4, 2010, D.C. Law 18-103, § 2(c), 56 DCR 9169; Mar. 31, 2011, D.C. Law 18-330, § 2(a), 58 DCR 20; June 16, 2011, D.C. Law 19-7, § 2(a), 58 DCR 3882; Apr. 27, 2012, D.C. Law 19-124, § 501(g)(4), 59 DCR 1862; June 5, 2012, D.C. Law 19-137, §§ 121(a), 201(a), 59 DCR 2542.)

Section references. — This section is referenced in § 1-1001.07, § 1-1001.10, § 1-1001.15, and § 1-1001.17.

Effect of amendments.

D.C. Law 19-137, in subsec. (a), substituted "subchapter VII of this chapter, and related acts" for "and related acts" in par. (14), deleted "and" from the end of par. (15), substituted "; and" for a period the end of par. (16), and added par. (17); and, in subsecs. (b)(2), (3)(A)(i) to (iv), substituted "90 days" for "60 days".

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-309.05.

§ 1-1001.07. Voter.

(a) No person shall be registered to vote in the District of Columbia unless:

(1) He or she meets the qualifications as a qualified elector as defined in § 1-1001.02(2);

(2) He or she executes an application to register to vote by signature or mark (unless prevented by physical disability) on a form approved pursuant to subsection (b) of this section or by the Federal Election Commission attesting that he or she meets the requirements as a qualified elector, and if he or she desires to vote in party election, this form shall indicate his or her political party affiliation; and

(3) The Board approves his or her registration application as provided in subsection (e) of this section.

(a-1)(1) No application for voter registration may be accepted or processed by the Board unless the application includes:

(A) The driver's license number of the applicant, or

(B) The last 4 digits of the social security number of an applicant who has not been issued a current and valid driver's license.

(2) If an applicant has not been issued a current and valid driver's license or a social security number, the Board shall assign the applicant the unique identifier assigned pursuant to § 1-1001.05(a)(1).

(a-2) A person who is otherwise qualified may pre-register on or after that person's 16th birthday and may vote in any election occurring on or after that person's 17th birthday; provided, that the person is at least 18 years of age on or before the next general election.

(b) In administering the provisions of subsection (a)(2) of this section:

(1) The Board shall prepare and use a registration application form that meets the requirements of the National Voter Registration Act of 1993 [42 U.S.C. § 1973gg et seq.] and of the Help America Vote Act of 2002, and in which each request for information is readily understandable and can be satisfied by a concise answer or mark.

(2) Mail-in voter registration application forms approved by the Board shall meet the requirements of the National Voter Registration Act of 1993,

approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg et seq.) and the Help America Vote Act of 2002, shall be designed to provide an easily understood method of registering to vote by mail, and shall be mailed to the Board with postage prepaid. These forms shall have printed on them, in bold face type, the penalties for fraudulently attempting to register to vote pursuant to § 1-1001.14(a) and the National Voter Registration Act of 1993 [42 U.S.C. § 1973gg et seq.]. If an applicant fails to properly complete the registration form, the Board's registrar shall notify the applicant and provide the applicant with an opportunity to complete the form in a timely manner prior to the next election.

(3) The Board shall accept any application form that has been preapproved by the Board for the purpose of voter registration and meets the requirements of this subsection or has been approved for use by federal legislation or regulation.

(4) The Board shall provide a field on voter registration forms to allow an applicant to indicate his or her interest in working as a polling place worker during the next election.

(c)(1)(A) Each Bureau of Motor Vehicle Services application (including any renewal application) shall automatically serve as an application to register to vote in the District of Columbia, unless the applicant fails to sign the voter registration portion of the application.

(B) The Bureau of Motor Vehicle Services and the Board shall jointly develop an application form that shall allow an applicant who wishes to register to vote to do so by the use of a single form that contains the necessary information for voter registration and information required for the issuance, renewal, or correction of the applicant's driver's permit or nondriver's identification card in any motor vehicle services office.

(C) The application for voter registration submitted pursuant to this subsection shall be considered as an update to any previous voter registration.

(D) Any application submitted for the purpose of a change of address or name accepted by the Bureau of Motor Vehicle Services, pursuant to this subsection, shall be considered notification to the Board of the change of address or name unless the applicant states on the combined portion of the form that the change of address or name is not for voter registration purposes.

(E) The combined portion of the application shall be designed so that the applicant can:

(i) Clearly state whether the change of address or name is for voter registration purposes;

(ii) Provide a mailing address, if mail is not received at the residence address; and

(iii) State whether he or she is a citizen of the United States.

(F) On a separate and distinct portion of the form, to be used for voter registration purposes, the applicant shall:

(i) Indicate a choice of party affiliation (if any);

(ii) Indicate the last address of voter registration (if known); and

(iii) Sign, under penalty of perjury, an attestation, which sets forth the requirements for voter registration, and states that he or she meets each of those requirements.

(G) The instructions for completing the form shall also include a statement that:

(i) If an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(ii) If an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(H) The deadline for transmission of the voter registration application to the Board shall be not later than 10 days after the date of acceptance by the Bureau of Motor Vehicle Services, except that if a voter registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the Board not later than 5 days after the date of its acceptance.

(I) An application to register to vote or for change of address, party, or name shall be considered received by the Board pursuant to subsection (e) of this section on the date it was accepted by the Bureau of Motor Vehicle Services.

(J) Any form issued by mail for the purposes of correcting or updating a driver's permit or nondriver's identification card shall be designed so that the individual may state whether the change of address or name is for voter registration purposes and provide a mailing address, if mail is not received at the residence address.

(K) The Board and the Bureau of Motor Vehicle Services shall match information in their respective databases to enable each agency to verify the accuracy of the information on applications for voter registration.

(2) The registration application form shall be designed by the Board to provide an easily understood method of registering to vote by mail and shall be mailable to the Board postage prepaid. Such forms shall have printed on them in bold face type the penalties for fraudulently attempting to register to vote.

(d)(1)(A) Any agency of the District of Columbia government that provides public assistance or that operates or funds programs primarily engaged in providing services to persons with disabilities shall be designated as a voter registration agency.

(B) In addition to the agencies named in subparagraph (A) of this paragraph, the Department of Parks and Recreation, the Department of Corrections, the Department of Youth and Rehabilitative Services, and the Office of Aging shall be designated as voter registration agencies.

(C) The Mayor may designate any other executive branch agency of the District of Columbia government as a voter registration agency by filing written notice of the designation with the Board.

(D) The District shall cooperate with the Secretary of Defense to develop and implement procedures for persons to apply to register to vote at Armed Forces recruitment offices.

(2) The agencies named in paragraphs (1)(A), (B), and (C) of this subsection shall:

(A) Distribute with each application for service or assistance, and with each recertification, renewal, or change of address form relating to the service

or assistance, a voter registration application, unless the applicant, in writing, declines to register to vote;

(B) Provide assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance;

(C) Provide the services described in this paragraph at the person's home, if a voter registration agency provides services to a person with a disability at the person's home; and

(D) Accept completed forms and forward these forms to the Board as prescribed in this section.

(3) Each voter registration agency shall, on its own application, document, or on a separate form, provide to each applicant for service or assistance, recertification or renewal, or change of address the following information:

(A) The question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(B) Boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C) of this paragraph, together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(C) The statement, "If you would like help completing the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may complete the application form in private.";

(D) The statement, "If you believe that someone has interfered with your right to register or decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the chief administrative officer of the Board of Elections and Ethics."; the name, title, address, and telephone number of the chief administrative officer shall be included on the form; and

(E) If the voter registration agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.".

(4) No person who provides a voter registration service at a District of Columbia government agency shall:

(A) Seek to influence an applicant's political preference or party registration;

(B) Display any political preference or party allegiance;

(C) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(5) Each agency that has been designated a voter registration agency in paragraph (1) of this subsection shall provide to each applicant who does not decline to register the same degree of assistance with regard to the completion

of the registration application form as provided by the office with regard to the completion of its own forms, unless the applicant refuses assistance.

(6) No information that relates to a declination to register to vote in connection with an application made at an office described in this subsection may be used for any purpose other than voter registration.

(7) No voter registration agency shall reveal whether a particular individual completed an application to register to vote except when ordered by the officer designated in paragraph (12)(A) of this subsection when a complaint has been filed pursuant to paragraph (11) of this subsection or pursuant to § 11 of the National Voter Registration Act of 1993.

(8) A completed voter registration application or change of address or name accepted at a voter registration agency shall be transmitted by the agency to the Board by not later than 10 days after its acceptance by the agency, except that if a voter registration application is accepted at a voter registration agency office within 5 days before the deadline for voter registration in any election, the application shall be transmitted by the agency to the Board not later than 5 days after the date of acceptance.

(9) An application accepted at a voter registration agency shall be considered to have been received by the Board pursuant to subsection (e) of this section as of the date of acceptance by the voter registration agency.

(10) Notwithstanding any other provision of law, the Board shall ensure that the identity of the voter registration agency through which any particular individual is registered to vote is not disclosed to the public.

(11) An allegation of violation of the National Voter Registration Act of 1993 [42 U.S.C. § 1973gg et seq.] or of this subchapter may be made in writing, filed with the chief administrative officer of the Board and detail concisely the alleged violation.

(12)(A) The Board shall designate its chief administrative officer as the official responsible for the coordination of the District of Columbia's responsibilities under the National Voter Registration Act of 1993 [42 U.S.C. § 1973gg et seq.] and as the official responsible for the coordination of this subchapter.

(B) The chief administrative officer designated under subparagraph (A) of this paragraph and the Board shall have the authority:

(i) To request any voter registration agency to submit in writing any reports and to answer any questions as the chief administrative officer or the Board may prescribe that relate to the administration and enforcement of the National Voter Registration Act of 1993 [42 U.S.C. § 1973gg et seq.] and of this subchapter; and

(ii) To bring a civil action in the Superior Court of the District of Columbia for declaratory or injunctive relief with respect to the failure of any voter registration agency to comply with the requirements of this subchapter.

(13) The Board may adopt regulations with respect to the coordination and administration of the National Voter Registration Act Conforming Amendment Act of 1994 and the National Voter Registration Act of 1993 [42 U.S.C. § 1973gg et seq.].

(14)(A) Agencies, other than voter registration agencies, may be designated as application distribution agencies. These agencies shall include the

District of Columbia Public Library, the District of Columbia Fire Department, the Metropolitan Police Department, and any other executive agency the Mayor designates in writing.

(B) Each application distribution agency shall request, and the Board shall provide, sufficient quantities of mail-in voter registration applications for distribution to the public.

(C) These mail-in voter registration applications shall be placed in each office or substation of the agency in an accessible location and in clear view so that citizens may easily obtain a mail-in voter registration application.

(D) Nothing in this subsection shall be deemed to require or permit employees of a mail-in voter registration application distribution agency to accept completed forms for delivery to the Board or to provide assistance in completing an application.

(e)(1) Within 19 calendar days after the receipt of a registration application form from any applicant, the Board shall mail a non-forwardable voter registration notification to the applicant advising the applicant of the acceptance or rejection of the registration application by its chief voter registration official.

(2) If the application is accepted, the notification shall include the applicant's name, address, date of birth, party affiliation (if any), ward, precinct and Advisory Neighborhood Commission single-member district ("SMD"), the address of the applicant's polling place and the hours during which the polls will be open. The voter registration notification shall state that the applicant shall not vote before her or his 18th birthday. The Board may include along with the registration notification any voter education materials it deems appropriate. Registration of the applicant shall be effective on the date the Board determines that the applicant is a qualified elector and eligible to register to vote in the District of Columbia.

(3) If the application is rejected, the notification shall include the reason or reasons for the rejection and shall inform the voter of his or her right to appeal the rejection pursuant to subsection (f) of this section.

(4) If the voter registration notification is returned to the Board as undeliverable, the Board shall mail the notice provided in subsection (j)(1)(B) of this section.

(5)(A) Any duly registered voter may file with the Board objections to the registration of any person whom he or she has reason to believe is fictitious, deceased, a disqualified person, or otherwise ineligible to vote (except with respect to a change of residence), or file a request for the addition of any person whose name he or she has reason to believe has been erroneously omitted or cancelled from the voter roll. Application for the correction of the voter roll or the challenge of the right to vote of any person named on the voter roll shall be in writing and include any evidence in support of the challenge that the registrant is not qualified to be a registered voter. The Board shall issue regulations establishing an expedited procedure for its review of a voter registration challenge or an application for correction of the voter roll filed during the period beginning on the 90th day before an election and ending on the 45th day before an election. The Board shall not accept a voter registration

challenge or application for correction of the voter roll after the 45th day before an election.

(B) The Board shall send notice to any person whose registration has been challenged along with a copy of any evidence filed in support of the challenge. The notice shall be sent to the address listed on the Board's records. The notice shall state that the registrant must respond to the challenge not later than 30 days from the date of the mailing of the notice or be cancelled from the voter roll.

(C) The Board's chief voter registration official shall make a determination with respect to the challenge within 10 days of receipt of the challenged registrant's response. The determination shall be sent by first class mail to the challenged registrant and the person who filed the challenge. Within 14 days of mailing the notice, any aggrieved party may appeal, in writing, the chief voter registration official's determination to the Board. The Board shall conduct a hearing and issue a decision within 30 days of receipt of the written notice of appeal.

(D) With respect to a request for the addition of a person to the voter roll, if the Board's records do not evidence that the individual named has been erroneously omitted or cancelled, the Board shall send notice to the individual named in the request and to the person who filed the request. The notice shall state that the named individual must file a completed voter registration application in order to become a registered voter in the District.

(6) An individual whose registration has been cancelled under this section shall not be eligible to vote except by re-registration as provided in this section.

(f) In the case where a voter registration application is rejected pursuant to subsection (e) of this section, the Board shall immediately notify the individual of the rejection by first class mail. The individual may request a hearing before the Board on the rejection within 14 days after the notification is mailed. Upon the request for a hearing, the Board shall hold the hearing within 30 days after receipt of the request. At the hearing, the applicant and any interested party, may appear and give testimony on the issue. The Board shall determine the issue within 2 days after the hearing. Any aggrieved party may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the Board's decision. The decision of the Court shall be final and not appealable. If any part of the process is pending on the date of any election held under this subchapter, the person whose registration is in question shall be permitted to cast a ballot in such election which is designated "challenged". The ballot shall be counted in the election if the applicant is ultimately deemed to be a qualified registered elector.

(f-1) Repealed.

(g)(1) At any time except during the 30-day period preceding any regularly scheduled election, a qualified elector or any individual who will be a qualified elector at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application and submitting it in person at the Board's office or by mail. A registration that is received no later than 4:45 P.M. on the 30th day preceding any election, or such time on that day as the Board's office remains open to receive registrations, shall be accepted.

(2) The Board shall process:

(A) Mailed voter registration applications and registration update notifications received postmarked by not later than the 30th day preceding any election; and

(B) Timely completed non-postmarked voter registration applications and registration update notifications mailed and received not later than the 23rd day preceding any election.

(3) The Board shall process faxed postcard applications from persons eligible to vote absentee in federal elections in the District of Columbia pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1973ff et seq.), which are faxed not later than the 30th day preceding any election.

(4) After the 30th day preceding an election, a qualified elector may register to vote in the precinct in which the voter maintains residence by completing a voter registration application and submitting it in person at the Board's office. A qualified elector shall not change his or her party affiliation after the 30th day preceding an election.

(5) A qualified elector may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence by completing a voter registration application, making an oath in the form prescribed by the Board, and providing proof of residence. An individual may prove residence for purposes of registering by presenting such identification as required under federal law, District law, or Board regulation. Each individual who registers on Election Day shall cast a special ballot, subject to the Board's verification of residence. A qualified elector shall not change his or her party affiliation on election day.

(6) The precinct captain shall keep a record of individuals who attempt to register on election day and shall indicate the form of proof of residency provided by the person. The record shall be forwarded to the Board with the election returns for that precinct.

(7)(A) The Board shall maintain a list, including the name and addresses, of all individuals who either:

(i) Attempted to register and vote in the election, but could not provide proof of residence; or

(ii) Successfully registered and voted.

(B) The Board shall make the list available to public inspection upon request.

(h)(1) No later than 45 days preceding any election held under this subchapter, the Board shall cause a District-wide alphabetical list of qualified electors registered to vote in the District to be placed in the main public library and shall cause an alphabetical ward list of qualified registered electors for each ward to be placed in each branch library located within the respective ward. Such lists shall be current as of the 60th day preceding such elections.

(2) The Board shall cause a copy of the list of qualified electors registered to vote as of the date the voter registry closed to be placed in public buildings of the District of Columbia for a period of not less than 14 days preceding each election held under this subchapter as follows:

(A) A District-wide list shall be placed in the main public library; and

(B) A ward list for the ward shall be placed in every branch library located within the respective ward.

(3) The provisions of this subsection shall not apply when a special election is held to fill a vacancy in an Advisory Neighborhood Commission single-member district.

(i)(1) A person shall be entitled to vote in an election in the District of Columbia if he or she is a duly registered voter. A qualified elector shall be considered duly registered in the District if he or she has met the requirements for voter registration and, on the day of the election, either resides at the address listed on the Board's records or files an election day change of address pursuant to this subsection.

(2) Each registered voter who changes his or her place of residence from that listed on the Board's records shall notify the Board, in writing, of the new residence address. A change of address shall be effective on the date the notification was mailed as shown by the United States Postal Service postmark. If not postmarked, the notification shall be effective on the date of receipt by the Board. Change of address notifications from registrants shall be accepted pursuant to subsection (g) of this section, except that any registrant who has not notified the Board of his or her current residence address by the deadline established by subsection (g) of this section may be permitted to vote at the polling place that serves the current residence address by filing an election day change of address notice pursuant to paragraph (4) of this subsection.

(3) Each registered voter who votes at a polling place on election day shall affirm his or her residence address as it appears on the official registration roll for the precinct. The act of signing a copy of the official registration roll for the precinct shall be deemed affirmation of the voter's address as it appears on the Board's registration records.

(4)(A) A registered voter who has moved within the District but has not notified the Board in writing of his or her current address by the deadline established pursuant to subsection (g) of this section, or who is designated inactive pursuant to subsection (j) of this section, shall, prior to being permitted to vote, file notification of a change of address on a form provided by the Board, at the polling place serving the current residence address.

(B) A registered voter who files an election day change of address at the precinct of current residence in accordance with this paragraph shall, by written affirmation, establish identity and current residence within the precinct at the time of voting.

(C) The ballot of each person who files a change of address at a polling place shall be stamped "special" and placed in a sealed envelope. The outside of the special ballot envelope shall contain the affirmation signed by the voter attesting to his or her qualifications to vote in the election, the date of birth of the voter, and any other information as the Board deems necessary for its chief registration official to determine that the individual is qualified to have the ballot counted. The official in charge of the polling place shall provide the voter with written notification of the means by which the voter can determine from

the Board whether the ballot will be counted and of the voter's right of appeal pursuant to § 1-1001.09(e) should the chief registration official determine that the voter is not qualified to vote in the election.

(5)(A) As soon as practicable after the election, the Board shall mail each registered voter who filed a change of address at the polls on election day a nonforwardable address confirmation notice to the address provided in the written affirmation.

(B) Where the United States Postal Service returns the address confirmation notification as undeliverable or indicating that the registrant does not live at the address provided in the written affirmation, the Board shall notify the Corporation Counsel of the District of Columbia.

(6) Each individual who has not previously voted in a federal election in the District and who registers to vote by mail shall present, either at the time of registration, at the polling place, or when voting by mail, a copy of a current and valid government photo identification or a copy of a current utility bill, bank statement, government check, or pay check that shows the name and address of the voter. Individuals who fail to present this identification shall vote by special ballot. This paragraph shall not apply to:

(A) Individuals whose registration application includes a driver's license number or at least the last 4 digits of the individual's social security number, and matches an existing identification record bearing the same number, name, and date of birth as the application; or

(B) Individuals entitled to vote otherwise than in person under federal law.

(j)(1) The Board shall develop a systematic program to maintain the voter roll and keep it current. This program shall include the following:

(A) In January of each odd-numbered year, the Board shall confirm the address of each registered voter who did not confirm his or her address through the voting process or file a change of address at the polls in the preceding general election by mailing a first class nonforwardable postcard to the address listed on the Board's records.

(B)(i) If the United States Postal Service returns the notice and provides a new address for the registrant within the District of Columbia, the Board shall change the address on its records and mail to both the old and new addresses of the registrant a forwardable notification that the address has been changed to reflect the information obtained from the United States Postal Service.

(ii) If the United States Postal Service returns the notice and provides a new address outside the District of Columbia, the Board shall mail a forwardable notice to both the old and new address informing the registrant how to register to vote in the new jurisdiction or correct the address information obtained from the United States Postal Service.

(iii) If the United States Postal Service returns the notice to the Board as undeliverable, the Board shall mail to the registrant at his or her last known address the notice prescribed in sub-subparagraph (ii) of this subparagraph.

(C) The notices prescribed in subparagraphs (A) and (B) of this paragraph shall include a pre-addressed and postage paid return notification

postcard to enable the registrant to correct any address information obtained from the United States Postal Service. In addition, the notices shall include the following information:

"If you did not change your residence, or changed residence but remained in the District, you should return the card not later than the deadline for mail registration for the next federal election (the 30th day before the election). If the card is not returned, affirmation of your address may be required before you are permitted to vote in any election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office that occurs after the date of the notice, and if you do not vote in an election during that period, your name will be removed from the list of eligible voters.".

(D) The Board may, in addition, utilize information obtained from the United States Postal Service, the National Change of Address System ("NCOA"), the Bureau of Motor Vehicle Services (subject to the provisions of subsection (c)(1)(D) of this section, which identifies registrants who have moved from the addresses listed on the Board's records. In these cases the Board shall issue the notices prescribed in subparagraph (B) of this paragraph.

(2)(A) Upon mailing of the notice required in paragraph (1)(B) of this subsection, the registrant's voter registration status shall be designated as inactive on the voter roll.

(B) Where a registered voter is designated as inactive on the voter roll pursuant to subparagraph (A) of this paragraph and the registrant provides the Board with a current residence address, or votes in any election in accordance with subsection (i) of this section by the date established in subparagraph (C) of this paragraph, the inactive designation shall be removed from the registrant's record.

(C) Where the Board mails the notice required in paragraph (1)(B) of this subsection, and the registrant fails to respond to the notice and fails to vote during the period beginning on the date the notice was mailed and ending on the day after the second general election for federal office, the registrant's name shall be removed from the voter roll.

(3) As part of its systematic voter roll maintenance program, the Board may, by regulation, develop additional procedures to identify and remove from the voter roll registrants who are deceased and no notification was received from the Bureau of Vital Statistics, who have moved from the District and no notification was received from the registrant or the United States Postal Service, or who otherwise no longer meets the qualifications as duly registered voters.

(4) Any systematic program conducted by the Board to identify individuals who do not reside at the address listed on the Board's records shall be completed not less than the 90th day immediately preceding any primary, general, or District-wide special election.

(5) The voter registrations of individuals whose registrations are designated as inactive on the voter roll, pursuant to paragraph (2) of this subsection:

(A) Shall not be utilized in the calculation of the number of signatures required for qualification of candidate, initiative, referendum, and recall petitions;

(B) Shall not be counted as valid in the verification of signatures pursuant to §§ 1-1001.08(o), 1-1001.16(o), and 1-1001.17(k);

(C) Shall not be included where the Board is required:

(i) To provide lists of registered voters at the polls on election day or for public inspection;

(ii) To calculate or report the number of registered voters for an administrative purpose; or

(iii) For the issuance of information mailings; and

(D) Their names shall not be sold by the Board either in hard copy form or electronic media, except upon specific request of the purchaser and the fact that the registrations are designated as inactive is made known to the purchaser.

(k)(1) The Board shall cancel a voter registration upon receipt of a signed request from the registrant, upon notification of the death of a registrant, upon notification of a registrant's incarceration for conviction of a felony, upon notification that the registrant has registered to vote in another jurisdiction, or for any other reason specifically authorized in this subchapter.

(2) The Board shall request at least monthly, and the Mayor shall furnish, the name, address, and date of birth, if known, of each District resident 18 years of age and over reported deceased within the District, together with the name and address of each District resident who has been reported deceased by other jurisdictions since the date of the previous report.

(3) The Board shall request at least monthly, and the Superior Court of the District of Columbia shall furnish, the name and address of each person incarcerated as a result of a felony conviction since the date of the previous report, and the former and present names and address of each person whose name has been changed by decree or order of the Court since the date of the previous report.

(4) The Board shall request from the United States District Court for the District of Columbia, at least monthly, the name and address of each person incarcerated as a result of a felony conviction since the date of the previous report.

(5) Any individual whose registration has been cancelled shall not be permitted to vote except by re-registration as provided in this section.

(l) Before May 1, 2010, the Board shall submit to the Council a report indicating the feasibility of implementing automatic voter registration in the District.

(Aug. 12, 1955, 69 Stat. 700, ch. 862, § 7; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1 (8, 9, 10, 11); July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; Apr. 22, 1968, 82 Stat. 103, Pub. L. 90-292, § 4(4); July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Dec. 23, 1971, 85 Stat. 790, Pub. L. 92-220, § 1(8), (30), (31); 1973 Ed., § 1-1107; Dec. 16, 1975, D.C. Law 1-37, § 2(3)-(5), 22 DCR 3426; Apr. 23, 1977, D.C. Law 1-126, title III, § 301(g)-(i), title IV, § 402, 24 DCR 2372; Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 2(e), (n), (p), (q), 29 DCR 458; July 1, 1982, D.C. Law 4-120, § 2(b), 29 DCR 2064; Aug. 2, 1983, D.C. Law 5-17, § 5(c), 30 DCR 3196; Mar.

16, 1988, D.C. Law 7-92, § 3(d)-(g), 35 DCR 716; Aug. 17, 1991, D.C. Law 9-32, § 2, 38 DCR 4220; Mar. 11, 1992, D.C. Law 9-75, § 2(b), 39 DCR 310; Feb. 5, 1994, D.C. Law 10-68, § 7(a), 40 DCR 6311; Sept. 22, 1994, D.C. Law 10-173, § 2(b), 41 DCR 5154; July 25, 1995, D.C. Law 11-30, § 2(b), 42 DCR 1547; Apr. 18, 1996, D.C. Law 11-110, § 5(a), 43 DCR 530; Apr. 12, 2000, D.C. Law 13-91, § 123(b), 47 DCR 520; Apr. 3, 2001, D.C. Law 13-251, § 2(a), 48 DCR 668; Dec. 7, 2004, D.C. Law 15-218, § 2(c), 51 DCR 9132; Apr. 7, 2006, D.C. Law 16-91, § 127(b), 52 DCR 10637; Mar. 2, 2007, D.C. Law 16-191, § 48(l), 53 DCR 6794; Oct. 21, 2008, D.C. Law 17-236, § 2, 55 DCR 9019; Feb. 4, 2010, D.C. Law 18-103, § 2(e), 56 DCR 9169; May 31, 2012, D.C. Law 19-131,§ 2(a), 59 DCR 2389.)

Section references. — This section is referenced in § 1-309.09, § 1-1001.02, § 1-1001.05, § 1-1001.08, and § 1-1001.14.

Effect of amendments.

D.C. Law 19-131, in subsec. (g)(1), substituted "4:45 P.M. on the 30th day preceding any election, or such time on that day as the Board's office remains open to receive registrations," for "5:00 p.m. on the 31st day preceding any election"; in subsec. (g)(5), substituted "law, District law, or Board regulation. Each individual who registers on Election Day shall cast a special ballot, subject to the Board's verification of residence." for "law; provided, that, for each election occurring before December 31, 2010, the individual shall cast a special ballot, subject to the Board's verification of residence; provided further, that for each election occurring after December 31, 2010, if the individual does not present a government-issued and valid photo identification card showing the individual's address, the individual shall cast a special ballot, subject to the Board's verification of residence"; and, in subsec. (g)(7)(A)(i), substituted "register and vote in the election, but" for "register but".

Legislative history of Law 19-131. — Law 19-131, the "Board of Elections and Ethics Electoral Process Improvement Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-479, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on February 7, 2011, and March 6, 2012, respectively. Signed by the Mayor on March 19, 2012, it was assigned Act No. 19-328 and transmitted to both Houses of Congress for its review. D.C. Law 19-131 became effective on May 31, 2012.

§ 1-1001.08. Qualifications of candidates and electors; nomination and election of Delegate, Chairman of the Council, members of Council, Mayor, Attorney General, and members of Board of Education; petition requirements; arrangement of ballot.

(a)(1) Each candidate for election to the office of national committeeman or alternate, or national committeewoman or alternate, and for election as a member or official designated for election at large under paragraph (4) of § 1-1001.01, shall be a qualified elector registered under § 1-1001.07 who has been nominated for such office, or for election as such member or official, by a nominating petition:

(A) Signed by not less than 500, or 1%, whichever is less, of the qualified electors registered under such § 1-1001.07, who are of the same political party as the candidate; and

(B) Filed with the Board not later than the 90th day before the date of the election held for such office, member, or official.

(2) In the case of a nominating petition for a candidate for election as a

member or official designated for election from a ward under paragraph (4) of § 1-1001.01, such petition shall be prepared and filed in the same manner as a petition prepared and filed by a candidate under paragraph (1) of this subsection and signed by 100, or 1%, whichever is less, of the qualified electors residing in such ward, registered under § 1-1001.07, who are of the same political party as the candidate.

(b)(1)(A) No person shall hold elected office pursuant to this section unless he or she has been a bona fide resident of the District of Columbia continuously since the beginning of the 90-day period ending on the date of the next election, and is a qualified elector registered under § 1-1001.07.

(B) Repealed.

(C) Repealed.

(D) Any candidate for the position of Attorney General shall also meet the qualifications required by § 1-301.83 before the day on which the election for Attorney General is to be held.

(2) Only qualified petition circulators may circulate nominating petitions in support of candidates for elected office pursuant to this subchapter. The Board shall consider invalid the signatures on any petition sheet that was circulated by a person who, at the time of circulation, was not a qualified petition circulator.

(3) All signatures on a petition shall be made by the person whose signature it purports to be and not by any other person. Each petition shall contain an affidavit, made under penalty of perjury, in a form to be determined by the Board and signed by the circulator of that petition which shall state that the circulator is a registered voter and has:

(A) Personally circulated the petition;

(B) Personally witnessed each person sign the petition; and

(C) Inquired from each signer whether he or she is a registered voter in the same party as the candidate and, where applicable, whether the signer is registered in and a resident of the ward from which the candidate seeks election.

(4) Any circulator who knowingly and willfully violates any provisions of this section, or any regulations promulgated pursuant to this section, shall upon conviction be subject to a fine of not more than $10,000, or imprisonment for not more than 6 months, or both. Each occurrence of a violation of this section shall constitute a separate offense. Violations of this section shall be prosecuted in the name of the District of Columbia by the Corporation Counsel of the District of Columbia.

(c)(1) In such election of officials referred to in paragraph (1) of § 1-1001.01, and in each election of officials designated for election at large pursuant to paragraph (4) of § 1-1001.01, the Board shall arrange the ballot of each party to enable the registered voters of such party to vote separately or by slate for each official duly qualified and nominated for election to such office.

(2) In each election of officials designated, pursuant to paragraph (4) of § 1-1001.01, for election from a ward, the Board shall arrange the ballot of each party to enable the registered voters of such party, residing in such ward, to vote separately or by slate for each official duly qualified and nominated from such ward for election to such office from such ward.

(d) Each political party which had in the next preceding election year at least 7,500 votes cast in the general election for a candidate of the party to the office of Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General, shall be entitled to elect candidates for presidential electors, provided that the party has met all deadlines set out in this subchapter or by regulation for the submission of a party plan for the election. The executive committee of the organization recognized by the national committee of each such party as the official organization of that party in the District of Columbia shall nominate by appropriate means the presidential electors for that party. Nominations shall be made by message to the Board on or before September 1st next preceding a presidential election.

(e) The names of the candidates of each political party for President and Vice President shall be placed on the ballot under the title and device, if any, of that party as designated by the duly authorized committee of the organization recognized by the national committee of that party as the official organization of that party in the District. The form of the ballot shall be determined by that Board. The position on the ballot of names of candidates for President and Vice President shall be determined by lot. The names of persons nominated as candidates for electors of President and Vice President shall not appear on the ballot.

(f) A political party which does not qualify under subsection (d) of this section may have the names of its candidates for President and Vice President of the United States printed on the general election ballot provided a petition nominating the appropriate number of candidates for presidential electors signed by at least 1 per centum of registered qualified electors of the District of Columbia, as shown by the records of the Board as of the 144th day before the date of the presidential election, is presented to the Board on or before the 90th day before the date of the presidential election.

(g) No person may be elected to the office of elector of President and Vice President pursuant to this subchapter unless: (1) He or she is a registered voter in the District; and (2) He or she has been a bona fide resident of the District for a period of 3 years immediately preceding the date of the presidential election. Each person elected as elector of President and Vice President shall, in the presence of the Board, take an oath or solemnly affirm that he or she will vote for the candidates of the party he or she has been nominated to represent, and it shall be his or her duty to vote in such manner in the electoral college.

(h)(1)(A) The Delegate, Chairman of the Council, the 4 at-large members of the Council, Mayor, and Attorney General shall be elected by the registered qualified electors of the District of Columbia in a general election. Each candidate for the office of Delegate, Chairman of the Council, the at-large members of the Council, Mayor, and Attorney General in any general election shall, except as otherwise provided in subsection (j) of this section and § 1-1001.10(d), have been elected by the registered qualified electors of the District as such candidate by the next preceding primary election.

(B)(i) A member of the office of Council (other than the Chairman and any member elected at large) shall be elected in a general election by the

registered qualified electors of the respective ward of the District from which the individual seeking such office was elected as a candidate for such office as provided in sub-subparagraph (ii) of this subparagraph.

(ii) Each candidate for the office of member of the Council (other than Chairman and at-large members) shall, except as otherwise provided in subsection (j) of this section and § 1-1001.10(d), have been elected as such a candidate, by the registered qualified electors of the ward of the District from which such individual was nominated, at the next preceding primary election to fill such office within that ward.

(2) The nomination and election of any individual to the office of Delegate, Chairman of the Council, member of the Council, Mayor, and Attorney General shall be governed by the provisions of this subchapter. No political party shall be qualified to hold a primary election to select candidates for election to any such office in a general election unless, in the next preceding election year, at least 7,500 votes were cast in the general election for a candidate of such party for any such office or for its candidates for electors of President and Vice President.

(i)(1) Each individual in a primary election for candidate for the office of Delegate, Chairman of the Council, at-large member of the Council, Mayor, or Attorney General shall be nominated for any such office by a petition:

(A) Filed with the Board not later than 90 days before the date of such primary election; and

(B) Signed by at least 2,000 registered qualified electors of the same political party as the nominee, or by 1 per centum of the duly registered members of such political party, whichever is less, as shown by the records of the Board as of the 144th day before the date of such election.

(2) Each individual in a primary election for candidate for the office of member of the Council (other than Chairman and at-large members) shall be nominated for such office by a petition filed with the Board not later than 90 days before the date of such primary election, and signed by at least 250 persons, or by 1 per centum of persons (whichever is less, in the ward from which such individual seeks election) who are duly registered in such ward under § 1-1001.07 and who are of the same political party as the nominee.

(3) For the purpose of computing nominating petition signature requirements, the Board shall by noon on the 144th day preceding the election post and make available the exact number of qualified registered electors in the District by party, ward, and precinct, as provided in this subsection. The Board shall make available for public inspection, in the office of the Board, the entire list of registered electors upon which such count was based. Such list shall be retained by the Board until the period for circulating, filing, and challenging petitions has ended.

(4) A nominating petition for a candidate in a primary election for any such office may not be circulated for signature before the 144th day preceding the date of such election and may not be filed with the Board before the 115th day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions. The Board shall arrange the ballot of each political party in each such primary election as to enable a voter of such party to vote for nominated candidates of that party.

(j)(1) A duly qualified candidate for the office of Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General, may, subject to the provisions of this subsection, be nominated directly as such a candidate for election for such office (including any such election to be held to fill a vacancy). Such person shall be nominated by petition: (A) Filed with the Board not less than 90 days before the date of such general election; and (B) In the case of a person who is a candidate for the office of member of the Council (other than the Chairman or an at-large member), signed by 500 voters who are duly registered under § 1-1001.07 in the ward from which the candidate seeks election; and in the case of a person who is a candidate for the office of Delegate, Chairman of the Council, at-large member of the Council, Mayor, or Attorney General, signed by duly registered voters equal in number to 1½ per centum of the total number of registered voters in the District, as shown by the records of the Board as of 144 days before the date of such election, or by 3,000 persons duly registered under § 1-1001.07, whichever is less. No signatures on such a petition may be counted which have been made on such petition more than 144 days before the date of such election.

(2) Nominations under this subsection for candidates for election in a general election to any office referred to in paragraph (1) of this subsection shall be of no force and effect with respect to any person whose name has appeared on the ballot of a primary election for that office held within 8 months before the date of such general election.

(3) No person shall be nominated directly as a candidate in any general election for the office of Delegate, Chairman of the Council, member of the Council, Mayor, Attorney General, United States Senator, or United States Representative who is registered to vote as affiliated with a party qualified to conduct a primary election.

(k)(1) In each general election for the office of member of the Council (other than the office of the Chairman or an at-large member), the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any 1 candidate who:

(A) Has been duly elected by any political party in the next preceding primary election for such office from such ward;

(B) Has been duly nominated to fill a vacancy in such office in such ward pursuant to § 1-1001.10(d); or

(C) Has been nominated directly as a candidate for such office in such ward under subsection (j) of this section.

(2) In each general election for the office of Chairman and member of the Council at large, the Board shall arrange the ballots to enable a registered qualified elector to vote for as many candidates for election as members at large as there are members at large to be elected in such election, including the Chairman. Such candidates shall be only those persons who:

(A) Have been duly elected by any political party in the next preceding primary election for such office;

(B) Have been duly nominated to fill vacancies in such office pursuant to § 1-1001.10(d); or

(C) Have been nominated directly as a candidate under subsection (j) of this section.

(3) In each general election for the office of Delegate, Mayor, and Attorney General, the Board shall arrange the ballots to enable a registered qualified elector to vote for any 1 of the candidates for any such office who:

(A) Has been duly elected by any political party in the next preceding primary election for such office;

(B) Has been duly nominated to fill a vacancy in such office pursuant to § 1-1001.10(d), or, in the case of the Attorney General, pursuant to § 1-204.35(b); or

(C) Has been nominated directly as a candidate under subsection (j) of this section.

(l)(1) Designation of offices of local party committees to be filled by election pursuant to paragraph (4) of § 1-1001.01 shall be effected, in accordance with the provision of this subsection, by written communication signed by the chairman of such committee and filed with the Board not later than 180 days before the date of such election.

(2) The notification shall specify separately:

(A) A comprehensive plan for the scheduled election;

(B) The titles of the offices and the total number of members to be elected at large, if any;

(C) The title of the offices and the total number of members to be elected by ward, if any; and

(D) The procedures to be followed in nominating and electing these members.

(3) Repealed.

(m) The election of the members of the Board of Education shall be conducted on a nonpartisan basis and in accordance with this subchapter.

(n) Each candidate in a general or special election for member of the Board of Education shall be nominated for such office by a nominating petition: (A) Filed with the Board not later than the 90th calendar day before the date of such general or special election; and (B) signed by at least 200 qualified electors who are duly registered under § 1-1001.07, who reside in the school district or ward from which the candidate seeks election, or in the case of a candidate running at large, signed by at least 1,000 of the qualified electors in the District of Columbia registered under such § 1-1001.07. A nominating petition for a candidate in a general or special election for member of the Board of Education may not be circulated for signatures before the 144th day preceding the date of such election and may not be filed with the Board before the 115th day preceding such date. In a general or special election for members of the Board of Education, the Board shall arrange the ballot for each school district or ward to enable a voter registered in that school district or ward to vote for any 1 candidate duly nominated to be elected to such office from such school district or ward, and to vote for as many candidates duly nominated for election at large to such office as there are Board of Education members to be elected at large in such election.

(o)(1) The Board is authorized to accept any nominating petition for a candidate for any office as bona fide with respect to the qualifications of the signatures thereto if the original or facsimile thereof has been posted in a

suitable public place for a 10-day period beginning on the third day after the filing deadline for nominating petitions for the office. Any registered qualified elector may within the 10-day period challenge the validity of any petition by written statement signed by the challenger and filed with the Board and specifying concisely the alleged defects in the petition. A copy of the challenge shall be sent by the Board promptly to the person designated for the purpose in the nominating petition. In a special election to fill a vacancy in an Advisory Neighborhood Commission single-member district, the period prescribed in this paragraph for posting and challenge shall be 5 days, excluding weekends and holidays.

(2) The Board shall receive evidence in support of and in opposition to the challenge and shall determine the validity of the challenged nominating petition not more than 20 days after the challenge has been filed. Within 3 days after announcement of the determination of the Board with respect to the validity of the nominating petition, either the challenger or any person named in the challenged petition as a nominee may apply to the District of Columbia Court of Appeals for a review of the reasonableness of such determination. The Court shall expedite consideration of the matter and the decision of such Court shall be final and not appealable.

(2A) Repealed.

(3) For the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine if the address on the petition is the same as the address shown of the signer's voter registration record. If the address is different than the address which appears on the signer's registration record, the address shall be deemed valid if:

(A) The signer's current address is within the single member district for an Advisory Neighborhood Commission election, within the school district for a school board election, within the ward for a ward-wide election, or within the District of Columbia for an at-large election; and

(B) The signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions.

(p) In any election, the order in which the names of the candidates for office appear on the ballot shall be determined by lot, upon a date or dates and under regulations prescribed by the Board.

(q) Any petition required to be filed under this subchapter by a particular date must be filed no later than 5:00 p.m. on such date.

(r)(1) In any primary, general, or special election held in the District of Columbia to nominate or elect candidates to public office, a voter may cast a write-in vote for a candidate other than those who have qualified to appear on the ballot.

(2) To be eligible to receive the nomination of a political party for public office, a write-in candidate shall be a duly registered member of the party nominated and shall meet all the other qualifications required for election to the office and shall declare his or her candidacy not later than 4:45 p.m. on the third day immediately following the date of the election on a form or forms prescribed by the Board.

(3) To be eligible for election to public office, a write-in candidate shall be a duly registered elector and shall meet all of the other qualifications required

for election to the office and shall declare his or her candidacy not later than 4:45 p.m. on the seventh day immediately following the date of the election in which he or she was a candidate on a form or forms prescribed by the Board.

(4) In party office elections, write-in voting provisions may also be subject to the party rules.

(s) The Board shall submit to the Mayor and Council a feasibility study of mail-ballot voting procedures, within 6 months after October 21, 2000. The study shall outline the advantages and disadvantages of mail-ballot procedures and recommend whether mail-ballot procedures should be implemented in District of Columbia elections. The study shall include an analysis of the following issues and topics that the Board deems appropriate:

(1) Administration and logistics;

(2) Ballot integrity and electoral fairness;

(3) Voter turnout;

(4) Cost;

(5) Applicability to special elections and regularly scheduled elections; and

(6) The experiences of other jurisdictions that have used mail-ballot procedures.

(Aug. 12, 1955, 69 Stat. 701, ch. 682, § 8; Oct. 4, 1961, 75 Stat. 818, Pub. L. 87-389, § 1 (12, 13); Apr. 22, 1968, 82 Stat. 103, Pub. L. 90-292, § 4(5); Sept. 22, 1970, 84 Stat. 849, Pub. L. 91-405, title II, §§ 203(b), 205(b), (e)(2), (f); Dec. 23, 1971, 85 Stat. 203(b), 205(b), (e)(2), (f); Dec. 23, 1971, 85 Stat. 790, Pub. L. 92-220, § 1(9)-(16), (32)-(34); Aug. 14, 1973, 87 Stat. 312, Pub. L. 93-92, § 1(8)-(14); Dec. 24, 1973, 87 Stat. 833, Pub. L. 93-198, title VII, § 751(3); Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306(a); Sept. 2, 1976, D.C. Law 1-79, title I, § 102(7)-(12), 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 301(j), title IV, § 402, 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 2(f), (o)-(s), 29 DCR 458; July 1, 1982, D.C. Law 4-120, § 2(c), 29 DCR 2064; Aug. 2, 1983, D.C. Law 5-17, § 5(d), 30 DCR 3196; Mar. 16, 1988, D.C. Law 7-92, § 3(h)-(k), 35 DCR 716; Dec. 10, 1991, D.C. Law 9-49, § 2(a), 38 DCR 6572; Mar. 11, 1992, D.C. Law 9-75, § 2(c), 39 DCR 310; Sept. 22, 1994, D.C. Law 10-173, § 2(c), 41 DCR 5154; Mar. 23, 1995, D.C. Law 10-254, § 3, 42 DCR 758; April 5, 2000, D.C. Law 13-78, § 2, 46 DCR 10440; July 18, 2000, D.C. Law 13-149, § 5(a), 47 DCR 4639; Oct. 21, 2000, D.C. Law 13-177,§ 2, 47 DCR 6842; Oct. 2, 2001, D.C. Law 14-26, § 2, 48 DCR 6344; Oct. 13, 2001, D.C. Law 14-30, § 2, 48 DCR 7087; Oct. 26, 2001, D.C. Law 14-43, § 2, 48 DCR 7631; Mar. 13, 2004, D.C. Law 15-105, § 24, 51 DCR 881; Dec. 7, 2004, D.C. Law 15-211, § 3, 51 DCR 8805; June 5, 2012, D.C. Law 19-137, § 201(a)(2), 59 DCR 2542; Oct. 17, 2013, D.C. Law 20-31, § 2(b), 60 DCR 11535; Dec. 13, 2013, D.C. Law 20-60, § 301(a), 60 DCR 15487.)

Section references. — This section is referenced in § 1-1001.05, § 1-1001.07, § 1-1001.09, § 1-1001.16, § 1-1001.17, and § 16-801.

Effect of amendments.

D.C. Law 19-137, in subsec. (a)(1)(B), substituted "90th day" for "69th day"; in subsec. (f), substituted "as shown by the records of the Board as of the 144th day before the date of the presidential election, is presented to the Board on or before the 90th day before the date of the presidential election" for "as of July 1st of the

year in which the election is to be held is presented to the Board on or before the third Tuesday in August preceding the date of the presidential election"; in subsecs. (i)(1)(A), (2), (j)(1)(A), substituted "90 days" for "69 days"; in subsecs. (i)(1)(B), (3), substituted "144th day" for "123rd day"; in subsec. (i)(4), substituted "144th day" preceding the date of such election and may not be filed with the Board before the 115th day"; for "123rd day preceding the date of such election and may not be filed with the Board before the 94th day"; in subsec. (j)(1)(B), substituted "144 days" for "123 days"; in subsec. (n), substituted "90th calendar day" for "69th calendar day" and substituted "144th day preceding the date of such election and may not be filed with the Board before the 115th day" for "123rd day preceding the date of such election and may not be filed with the Board before the 94th day"; and, in subsec. (o)(2), substituted "20 days" for "15 days".

The 2013 amendment by D.C. Law 20-31 rewrote (b)(2), which read: "Only registered, qualified electors of the District of Columbia are authorized to circulate nominating petitions of candidates for elected office pursuant to this subchapter. The Board shall consider invalid the signatures on any petition sheet which was circulated by a person who, at the time of circulation, was not a registered, qualified elector of the District of Columbia."

The 2013 amendment by D.C. Law 20-60 rewrote the section heading; added (b)(1)(d); substituted "Delegate, Chairman of the Council, member of the Council, Mayor, or Attorney General" for "Delegate, Mayor, Chairman of the Council, or member of the Council" in (d); and rewrote (h), (i), (j), and (k)(3).

Temporary legislation.

For temporary (225 days) amendment of this section, see § 2(a) of the Party Officer Elections Temporary Amendment of 2013 (D.C. Law 20-72, February 22, 2014, 61 DCR 30).

For temporary (225 days) amendment of this section, see § 2 of the Board of Elections Nominating Petition Circulator Affidavit Temporary Amendment Act of 2013 (D.C. Law 20-74, February 22, 2014, 61 DCR 34).

Emergency legislation.

For temporary amendment of (b)(2), see § 2(a) of the Board of Elections Petition Circulation Requirements Emergency Amendment Act of 2012 (D.C. Act 19-587, January 7, 2013, 60 DCR 977).

For temporary (90 days) amendment of this section, see § 2(a) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

For temporary (90 days) amendment of this section, see § 2 of the Board of Elections Nominating Petition Circulator Affidavit Emergency Amendment Act of 2013 (D.C. Act 20-209, November 7, 2013, 60 DCR 15779).

For temporary (90 days) amendment of this section, see § 2(a) of the Party Officer Elections Emergency Amendment Act of 2013 (D.C. Act 20-210, November 7, 2013, 60 DCR 15781).

For temporary (90 days) amendment of this section, see §§ 2(a) and 3 of the Party Officer Elections Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-286, February 20, 2014, 61 DCR 1606).

For temporary (90 days) amendment of this section, see §§ 2 and 3 of the Board of Elections Nominating Petition Circulator Affidavit Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-287, February 20, 2014, 61 DCR 1608).

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-309.05.

Legislative history of Law 20-31. — See note to § 1-1001.02.

Legislative history of Law 20-60. — 20-60, the "Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-134. The Bill was adopted on first and second readings on July 10, 2013 and Oct. 1, 2013, respectively. Returned without the Mayor's signature on Oct. 22, 2013, it was assigned Act No. 20-207 and transmitted to Congress for its review. D.C. Law 20-60 became effective on December 13, 2013.

Editor's notes.

Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 301 of the act shall apply as of December 13, 2013.

§ 1-1001.09. Secrecy required; place of voting; watchers; challenged ballots; assistance in marking ballot or operating voting machine; more than 1 vote prohibited; unopposed candidates; availability of regulations at polling place; deposit, inspection, and destruction of ballots.

(a) Voting in all elections shall be secret.

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, each

registered qualified elector shall cast his or her vote in the voting precinct that serves his or her current residence address.

(2) The Board shall permit any duly registered voter to vote by absentee ballot, for any reason, under such rules as the Board may issue.

(3) If a person who is a registered qualified elector of the District casts a vote in a voting precinct that does not serve his or her current residence address by special ballot, the Board shall count that vote for all contests for which the elector would have been eligible to cast votes had he or she cast a vote in the correct voting precinct.

(b-1)(1) For each primary and general election, the Board shall designate no fewer than 4 early voting centers.

(2) At each early voting center, the Board shall allow persons to vote in person for not more than 7 days before election day; provided, that no early voting shall occur on a holiday.

(3) The Department of General Services shall assist the Board in identifying appropriate locations for use as early voting centers.

(4) The Chief Technology Officer shall assist the Board in ensuring that each early voting center maintains a secure network environment with the Board's office.

(5) Before January 31, 2011, the Board shall submit a report to the Council on the effectiveness of using early voting centers, including information about:

(A) The effect of early voting centers on turnout rates;

(B) Whether the expanded use of early voting centers could permit for consolidation of precincts; or

(C) Other information about cost savings opportunities for the use of polling places.

(6) The Board shall issue rules implementing this subsection.

(b-2) The Board may provide blank ballots by fax, e-mail, or other electronic means to absent uniformed services voters and overseas voters in federal elections.

(c) Any candidate or group of candidates may, not less than 2 weeks prior to such election, petition the Board for credentials authorizing watchers at 1 or more polling places and at the place or places where the vote is to be counted for the next election during voting hours and until the count has been completed. The Board shall formulate rules and regulations not inconsistent with this subchapter to prescribe the form of watchers' credentials, to govern the conduct of such watchers, and to limit the number of watchers so that the conduct of the election will not of the election will not be unreasonably obstructed. Such rules and regulations should provide fair opportunity for watchers for all candidates or groups of candidates to challenge prospective voters whom the watchers believe to be unqualified to vote, to question the accuracy in the vote count, and otherwise to observe the conduct of the election at the polling place and the counting of votes.

(c-1) The Board shall issue rules for granting access to the electoral process, including access to polling places, ballot-tabulation centers, and other similar locations, to election observers. The rules shall take into account the need to

avoid disruption and crowding in polling places and ballot-tabulation centers and the need to ensure that all questions posed by observers should be answered as fully, accurately, and cooperatively as possible. Election observers shall be allowed uniform and nondiscriminatory access to all stages of the election process, including the certification of election technologies, early and absentee voting, and vote tabulation. The Board shall issue a public notice with respect to any denial of a request by any election observer for access to any polling place for purposes of observing an election. The notice shall be issued not later than 24 hours after the denial.

(d)(1) A registered voter may challenge another voter's status as a qualified elector of the District of Columbia by stating in writing the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge. The challenger shall sign an affidavit, declaring under penalty of perjury, that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District. After receiving a challenge or making a challenge on his or her own initiative, the precinct captain or other official in charge of the polling place shall give the challenged voter an opportunity to respond.

(2) Notwithstanding paragraph (1) of this subsection, a voter shall not be challenged solely on the basis of characteristics or perceived characteristics not directly related to the challenged voter's status as a registered qualified elector, including race, color, religion, sex, personal appearance, sexual orientation, gender identity or expression, matriculation status, political affiliation, or physical disability. The Board may remove a precinct captain or void the credentials of an authorized watcher, or refer the matter for prosecution as a violation of § 1-1001.12, if the Board determines that the precinct captain or the watcher has violated the provisions of this paragraph.

(3) The precinct captain shall review the evidence presented and shall affirm the challenge if he or she finds that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector. The precinct captain shall deny the challenge if he or she finds that the challenge is not based on substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector. The precinct captain shall record the decision and the rationale for the decision on a form provided by the Board.

(4) If the precinct captain denies the challenge, he or she shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the rules regarding challenges and appeals to the Board. Any appeal of the precinct captain's decision to deny the challenge shall be made either before the challenged voter casts a regular ballot, or before either the challenger or the challenged voter leaves the polling place, whichever is earlier. If the challenger does not appeal the precinct captain's decision to deny the challenge, the challenged voter shall cast a regular ballot.

(5) If the challenger appeals the precinct captain's decision to deny the challenge, the precinct captain shall state the facts of the case to the Board's hearing officer, who is authorized to rule on the appeal for the Board. A Board member, the Board's Executive Director, or the Board's chief voter registration

official may serve as the Board's hearing officer for the appeal. The precinct captain shall contact the hearing officer by telephone. The hearing officer shall ensure that the hearing is recorded, and shall take testimony under oath from the challenger, the person challenged, the precinct captain, and any witnesses to the challenge who wish to testify. Each person who testifies before the hearing officer shall state for the record their:

(A) Name as recorded on the Board's voter registration list;

(B) Residence address, mailing address, and telephone number; and

(C) Role in the challenge.

(6) The hearing officer shall receive evidence and testimony pursuant to paragraph (5) of this subsection and then shall close the hearing. The hearing officer shall review all of the evidence presented pertaining to the challenge and make a decision regarding the appeal, based on his or her determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector. The recording of the hearing shall be transcribed and shall serve as the official case record along with the written documentation of the precinct captain's initial decision to deny the challenge.

(7) The hearing officer shall notify the precinct captain of his or her decision on the appeal of the unsuccessful challenge, and the precinct captain shall notify each party of the hearing officer's decision. If the hearing officer affirms the precinct captain's decision to deny the challenge, the challenged voter shall cast a regular ballot. The precinct captain shall inform the challenger of his or her right to appeal the decision of the Board hearing officer to the Superior Court of the District of Columbia. If the hearing officer overturns the precinct captain's decision to deny the challenge, the challenged voter shall be allowed to vote only by casting a paper ballot marked "challenged" in accordance with the procedures set forth in paragraph (8) of this subsection.

(8) If the precinct captain affirms the challenge made at the polling place, or if the Board's hearing officer overturns the decision of the precinct captain to deny a challenge, the precinct captain shall allow the person to vote only by casting a paper ballot marked "challenged" and shall provide the voter with written notification of his or her right of appeal pursuant to subsection (e) of this section. Challenged ballots shall be segregated, and no challenged ballot shall be counted until the challenge has been removed pursuant to subsection (e) of this section. The precinct captain shall not allow the challenged voter to cast a "challenged" ballot unless the voter signs an affidavit swearing or affirming, under penalty of perjury, that he or she is a registered qualified elector in the District of Columbia who resides in the precinct in which the ballot is to be cast, and if applicable, the Advisory Neighborhood Commission single-member district in which the ballot is to be cast.

(d-1) Any individual who alleges that their name has been erroneously omitted from the list of registered voters, or alleges that their name, address or party affiliation is erroneously printed on the list of registered voters, shall be permitted to cast a ballot. Ballots so cast shall be placed in a sealed envelope. The outside of the envelope shall contain the signature of the voter

and such information as the Board deems necessary to determine that the individual is qualified to have the vote counted. The official in charge of the polling place shall provide the voter with written notification of appeal rights as provided in subsection (e) of this section, should the Board determine that the voter is not qualified to vote in the election.

(d-2) Any individual who votes in a federal election as a result of a court order or other order that extends the time established for closing the polls by a District law in effect 10 days before the date of that election shall vote in that election by casting a special ballot. Any ballot cast under this subsection shall be separated and held apart from other special ballots not affected by the order.

(e)(1) A voter's signing of a challenged or special ballot envelope shall be deemed as the filing of an appeal by the voter of the refusal by the Board's chief voter registration official to permit the voter to vote on election day by regular ballot, and a waiver of personal notice from the Board of any denial or refusal to a later count of the challenged or special ballot. The Board shall review all available evidence pertaining to the eligibility of each voter casting a challenged or special ballot, and shall make a preliminary decision about whether to count or to reject each challenged or special ballot based on its review of the available evidence.

(2) Not later than the Tuesday following the election, the Board shall maintain a toll-free telephone service during regular business hours for any person who has voted by a challenged or special ballot to learn the Board's preliminary decision whether to count or reject his or her ballot and the reason for each decision.

(3) If the Board has made a preliminary determination that a challenged ballot shall not be counted, it shall afford the challenged voter an opportunity to contest that determination in a hearing before the Board. The hearings authorized pursuant to this paragraph shall take place not earlier than 8 days and not later than 10 days after that election. The Board shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn the Board's final decision to count or reject the voter's challenged ballot. The notice shall be in writing and shall be provided to the voter at the time of voting. At the hearing, the voter may appear and testify. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable.

(4) If the Board has determined that a special ballot shall be not be counted, it shall afford the voter an opportunity to contest that determination in a hearing before the Board no earlier than 8 days and not later than 10 days after any election held pursuant to this subchapter. The Board shall inform the voter in writing, at the time of voting, of the date scheduled for the hearing and the manner by which the voter may learn whether the Board has decided to count or reject his or her special ballot. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable.

(f) If a qualified elector is unable to record his or her vote by marking the ballot or operating the voting machine an official of the polling place shall, on the request of the voter, enter the voting booth and comply with the voter's directions with respect to recording his or her vote. Upon the request of any such voter, a second official of the polling place shall also enter the voting booth and witness the recordation of the voter's directions. The official or officials shall in no way influence or attempt to influence the voter's decisions, and shall tell no one how the voter voted. The official in charge of the voting place shall make a return of all such voters, giving their names and disabilities.

(g)(1) No person shall vote more than once in any election nor shall any person vote in a primary or party election held by a political party other than that to which he or she has declared himself or herself to be a member.

(2) A name written on a ballot in any election shall not be counted as valid unless the individual whose name is written on the ballot has complied with the requirements of § 1-1001.08(r).

(h) In the event that the total number of candidates of one party nominated to an office or group of offices of that party pursuant to § 1-1001.08(a) or § 1-1001.17(i) does not exceed the number of such offices to be filled, the Board may, prior to election day and, notwithstanding the provisions of § 1-1001.08(c) or § 1-1001.17(i), declare the candidates so nominated to be elected without opposition, in which case the fact of their election pursuant to this subsection shall appear for the information of the voters on any ballot prepared by the Board for their party for the election of other candidates in the same election.

(i) Copies of the regulations of the Board with respect to voting shall be made available to prospective voters at each polling place.

(j) The Board shall receive the ballots cast and deposit them in a secure place where they shall be safely kept for 22 months. Inspection of such ballots shall be made in accordance with regulations of the Board. Whenever the ballots shall have remained in the custody of the Board for 22 months, and no election contest or other proceeding is pending in which the ballots may be needed as evidence, the Board may destroy such ballots.

(j-1) Upon the conclusion of voting at any precinct, the Board shall post a summary count of votes cast at the precinct. The summary shall be posted in a conspicuous place that can be seen from the outside of the precinct immediately upon completion of voting.

(j-2) Precinct captains shall prepare a summary log that indicates the number of:

(1) Votes cast in a polling place;

(2) Persons who have signed in;

(3) Voter-verifiable records that arrived at the polling place before the polls opened;

(4) Used voter-verifiable records; and

(5) Unused voter-verifiable records.

(k)(1) Each voting system used in an election in the District occurring after January 1, 2012, shall:

(A) Meet or exceed the voting system standards set forth in the Help

America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C. § 15301 et seq.), or be federally certified;

(B) Create a voter-verifiable record of all votes cast;

(C) Be capable without further modification of creating, storing, and exporting an anonymous separate machine record of each voter-verifiable record, showing each choice made by the voter; and

(D) Meet any additional standards established by the Board; provided, that the standards shall not conflict with those set forth in the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C. § 15301 et seq.).

(2) The voter-verifiable record shall be permanent and capable of being inspected for the purpose of audits and recounts. A voter-verifiable record need not be a paper ballot. A satisfactory voter-verifiable record shall include:

(A) A paper ballot prepared by the voter for the purpose of being read by a precinct-based optical scanner;

(B) A paper ballot prepared by the voter to be mailed, whether mailed from a domestic or an overseas location; and

(C) A paper ballot created through the use of a ballot marking device.

(3) The Board shall adopt voting system standards and review the standards on a biennial basis.

(l) The Board, through the Office of Contracting and Procurement, shall purchase voting system equipment under a competitive-bidding procedure that includes the following conditions:

(1) A provision to place a copy of the software source code for the voting system, and related documents, in escrow with an independent third-party evaluator selected by the vendor and the Board;

(2) A warranty provision that requires that the vendor:

(A) Promptly and fully disclose any flaw, defect, or vulnerability in the voting system of which the vendor is aware or becomes aware; and

(B)(i) Remedy any flaw, defect, or vulnerability in the voting system identified in subparagraph (A) of this paragraph at no cost to the District; or

(ii) If the flaw, defect, or vulnerability in the voting system cannot be remedied:

(I) Replace the voting system or the affected part of the voting system or provide an equivalent voting system at no cost to the District; or

(II) Reimburse the District for the full purchase price of the voting system or for the value of the affected part of the voting system, plus any costs incurred by the District as a result of the flaw, defect, or vulnerability;

(3) A most-favored customer provision that ensures that the District receive pricing terms that are at least as favorable as those received by any other customer, except for the federal government, during the term of the contract and during any extensions or renewals of the contract; and

(4) A provision that incorporates the requirements of § 1-1001.09a(k).

(Aug. 12, 1955, 69 Stat. 702, ch. 862, § 9; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87-389, § 1(14, 15, 16, 17); July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; Apr. 22, 1968, 82 Stat. 104, Pub. L. 90-292, § 4(6); July 29, 1970, 84 Stat. 570, Pub. L.

91-358, title I, § 155(a); Sept. 22, 1970, 84 Stat. 853, Pub. L. 91-405, title II, § 205(c), (d), (g), (h), (l); Dec. 23, 1971, 85 Stat. 792, Pub. L. 92-220, § 1(17); Aug. 14, 1973, 87 Stat. 313, Pub. L. 93-92, § 1(15); Dec. 16, 1975, D.C. Law 1-37, § 2(6), (7), 22 DCR 3430; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 2(g), (n), (p), (q), 29 DCR 458; July 1, 1982, D.C. Law 4-120, § 2(d), 29 DCR 2064; June 29, 1984, D.C. Law 5-96, § 2, 31 DCR 2554; Mar. 16, 1988, D.C. Law 7-92, § 3(l), 35 DCR 716; Mar. 11, 1992, D.C. Law 9-75, § 2(d), 39 DCR 310; Feb. 5, 1994, D.C. Law 10-68, § 7(b), 40 DCR 6311; Sept. 22, 1994, D.C. Law 10-173, § 2(d), 41 DCR 5154; July 25, 1995, D.C. Law 11-30, § 2(c), 42 DCR 1547; Apr. 9, 1997, D.C. Law 11-255, § 6(a), 44 DCR 1271; Apr. 3, 2001, D.C. Law 13-251, § 2(b), 48 DCR 668; Dec. 7, 2004, D.C. Law 15-218, § 2(d), 51 DCR 9132; Apr. 24, 2007, D.C. Law 16-305, § 6(b), 53 DCR 6198; June 25, 2008, D.C. Law 17-177, § 4(b), 55 DCR 3696; Feb. 4, 2010, D.C. Law 18-103, § 2(f), 56 DCR 9169; Mar. 31, 2011, D.C. Law 18-330, § 2(b), 58 DCR 20; May 31, 2012, D.C. Law 19-131, § 2(b), 59 DCR 2389; Sept. 26, 2012, D.C. Law 19-171, § 11, 59 DCR 6190.)

Section references. — This section is referenced in § 1-1001.07, § 1-1001.14, and § 1-1001.17.

Effect of amendments.

D.C. Law 19-131, in subsec. (b)(1), substituted "each registered qualified elector shall cast his or her vote in the voting precinct that serves his or her current residence address" for "the vote of a person who is a registered qualified elector of the District shall be valid only if the vote is cast in the voting precinct that serves his or her current residence address"; in subsec. (b)(3), substituted "all contests for which the elector would have been eligible to cast votes had he or she cast a vote in the correct voting precinct" for "federal election contests and for any District-wide election contests"; and, in subsec. (b-1)(1), substituted "no fewer than 4 early voting centers" for "an early voting center in each of the 8 election wards".

The 2012 amendment by D.C. Law 19-171 substituted "Department of General Services" for "Office of Property Management" in (b-1)(3).

Legislative history of Law 19-131. — For history of Law 19-131, see notes under § 1-1001.07.

Legislative history of Law 19-168. — See note to § 1-1001.04.

§ 1-1001.10. Dates for holding elections; votes cast for President and Vice President counted as votes for presidential electors; voting hours; tie votes; filling vacancy where elected official dies, resigns, or becomes unable to serve.

(a)(1) The elections of the officials referred to in § 1-1001.01(1), (2), (3), or (4) shall be held, at the request of the party, on either the 2nd Tuesday in February of each presidential election year or the 1st Tuesday in April of each presidential election year if there is a primary election already scheduled for other purposes on the date requested. The primary under § 1-1001.05(b) shall be held on the 1st Tuesday in April of each presidential election year.

(2) The electors of President and Vice President of the United States shall be elected on the Tuesday next after the 1st Monday in November in every 4th year succeeding every election of a President and Vice President of the United States. Each vote cast for a candidate for President or Vice President whose name appears on the general election ballot shall be counted as a vote cast for the candidates for presidential electors of the party supporting such presiden-

tial and vice presidential candidate. Candidates receiving the highest number of votes in such election shall be declared the winners, except that in the case of a tie it shall be resolved in the same manner as is provided in subsection (c) of this section.

(3)(A) Except as otherwise provided in the case of special elections under this subchapter or § 206(a) of the District of Columbia Delegate Act, primary elections of each political party for the office of Delegate to the House of Representatives shall be held on the 1st Tuesday in April of each even-numbered year; and general elections for such office shall be held on the Tuesday next after the 1st Monday in November of each even-numbered year.

(B) Except as otherwise provided in the case of special elections under this subchapter primary elections of each political party for the office of member of the Council shall be held on the 1st Tuesday in April in 1974, and every 2nd year thereafter, and general election for such offices shall be held on the 1st Tuesday after the 1st Monday in November in 1974 and every 2nd year thereafter.

(C) Except as otherwise provided in the case of a special election under this subchapter or by § 1-204.35(b), primary elections of each political party for the office of Chairman of the Council, Mayor and Attorney General shall be held on the 1st Tuesday in April of every 4th year, commencing with calendar year 1974, and the general election for such office shall be held on the 1st Tuesday after the 1st Monday in November in 1974 and every 4th year thereafter.

(4) With respect to special elections required or authorized by this subchapter or by § 1-204.35(b), the Board may establish the dates on which such special elections are to be held and prescribe such other terms and conditions as may, in the Board's opinion, be necessary or appropriate for the conduct of such elections in a manner comparable to that prescribed for other elections held pursuant to this subchapter.

(5) General elections of members of the Board of Education shall be held on the 1st Tuesday after the 1st Monday in November of each odd-numbered calendar year through 1987, and thereafter in each even-numbered calendar year, on the same day and month.

(b)(1) All elections prescribed by this subchapter shall be conducted by the Board in conformity with the provisions of this subchapter. In all elections held pursuant to this subchapter, the polls shall be open from 7:00 a.m. to 8:00 p.m., except in instances when the time established for closing the polls is extended pursuant to a federal or District court order or any other order. The Board may, upon request of the precinct captain or upon its own initiative, if an emergency exists by reason of mechanical failure of a voting machine, an unanticipated shortage of ballots, excessive wait times, bomb threats, or similar unforeseen event warrants it, extend the polling hours for that precinct until the emergency situation has been resolved. Candidates who receive the highest number of votes, other than candidates for election as political party officials or delegates to national conventions nominating candidates for President and Vice President of the United States, shall be declared winners. If after the date of an election and prior to the certification of the election results, the qualified

candidate who has received the highest number of votes dies, withdraws, or is found to be ineligible to hold the office, or in the event no candidate qualifies for election, the Board shall declare no winner, and the office shall become vacant as of the date of the beginning of the term of office for which the election was held. With respect to a primary election, the position of candidate shall be vacant until filled pursuant to subsection (d) of this section.

(2)(A) No person shall canvass, electioneer, circulate petitions, post any campaign material or engage in any activity that interferes with the orderly conduct of the election within a polling place or within a 50-foot distance from the entrance and exit of a polling place. The Board, by regulation, shall establish procedures for determination and clear marking of the 50-foot distance.

(B) A person who violates the provisions of this paragraph shall, upon conviction, be fined not less than $50 or more than $500 or imprisoned for not more than 30 days, or both.

(c) In the case of a tie vote, the resolution of which will affect the outcome of any election, the candidates receiving the tie vote shall cast lots before the Board at 12:00 noon on a date to be set by the Board. This date shall be set no sooner than 2 days following determination by the Board of the results of the election which resulted in a tie. The candidate to whom the lot shall fall shall be declared the winner. If the candidate or candidates fail to appear by 12:00 noon on said day, the Board shall cast lots for him or her or them. For purpose of casting lots, any candidate may appear in person, or by proxy appointed in writing.

(d)(1) In the event that any official, other than Delegate, member of the Council, Mayor, Attorney General, member of the Board of Education, or winner of a primary election for the office of Delegate, member of the Council, Mayor, or Attorney General, elected pursuant to this subchapter dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this subchapter to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of the term shall be chosen pursuant to the rules of the duly authorized party committee, except that the successor shall have the qualifications required by this subchapter for the office.

(2)(A) In the event that a vacancy occurs in the office of Delegate before May 1 of the last year of the Delegate's term of office, the Board shall hold a special election to fill the unexpired term. The special election shall be held on the first Tuesday that occurs more than 114 days after the date on which the vacancy is certified by the Board unless the Board determines that the vacancy could be filled more practicably in a special election held on the same day as the next District-wide special, primary, or general election that is to occur within 60 days of the date on which the special election would otherwise have been held under the provisions of this subsection. The person elected to fill the vacancy in the office of Delegate shall take office the day on which the Board certifies his or her election.

(B) In the event that a vacancy occurs in the office of Delegate on or after May 1 of the last year of the Delegate's term of office, the Mayor shall appoint a successor to complete the remainder of the term of office.

(3) In the event of a vacancy in the office of United States Representative or United States Senator elected pursuant to § 1-123 and that vacancy cannot be filled pursuant to paragraph (1) of this subsection, the Mayor shall appoint, with the advice and consent of the Council, a successor to complete the remainder of the term of office.

(e)(1) In the event of a vacancy of an elected member of the Board of Education, the Board of Elections shall hold a special election to fill the unexpired term of the vacant office. The special election shall be held on the 1st Tuesday that occurs more than 114 days after the date on which the vacancy is certified by the Board of Elections, unless the Board determines that the vacancy could be filled more practicably in a special election held on the same day as the next special, primary, or general election that is to occur within 60 days of the date on which a special election would otherwise have been held under the provisions of this subsection. The person elected as a member to fill a vacancy on the Board of Education shall take office the day on which the Board of Elections certifies his or her election.

(2) When the office of the President becomes vacant, the Board of Education shall select one of the members of the Board to serve as the interim President until the election of a new President.

(f) Notwithstanding the provisions of subsection (e) of this section, if a vacancy of an elected member of the Board of Education occurs on or after February 1st of the last year of the term of the vacant office, a special election shall not be held and the Board of Education may appoint a person to fill such vacancy until the unexpired term ends. Any person appointed under this subsection shall have the same qualifications for holding such office as were required of his or her immediate predecessor.

(g) A vacancy among the appointed Board members shall be filled within 45 days of its occurrence. The Mayor shall submit a nominee to the Council for confirmation within 30 days of the vacancy. Any Board member appointed to fill a vacancy shall serve until the end of the original term.

(Aug. 12, 1955, 69 Stat. 702, ch. 862, § 10; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87-389, § 1(18, 19, 20); Apr. 22, 1968, 82 Stat. 105, Pub. L. 90-292, § 4(7); Sept. 22, 1970, 84 Stat. 850, Pub. L. 91-405, title II, §§ 203(c), 205(e)(2); Dec. 23, 1971, 85 Stat. 792, Pub. L. 92-220, § 1(18)-(21); Aug. 14, 1973, 87 Stat. 313, Pub. L. 93-92, § 1(16)-(19); Dec. 24, 1973, 87 Stat. 834, Pub. L. 93-198, title VII, § 751(4)-(8); Aug. 29, 1974, 88 Stat. 794, Pub. L. 93-395, § 3(a); Sept. 2, 1976, D.C. Law 1-79, title V, § 504, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title II, § 201, title IV, § 402, 24 DCR 2372; Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 2(h), (n)-(q), (s), 29 DCR 458; Sept. 26, 1984, D.C. Law 5-116, § 5, 31 DCR 4018; Mar. 16, 1988, D.C. Law 7-92, § 3(m), 35 DCR 716; Dec. 10, 1991, D.C. Law 9-49, § 2(b), 38 DCR 6572; Sept. 22, 1994, D.C. Law 10-173, § 2(e), 41 DCR 5154; July 18, 2000, D.C. Law 13-149, § 5(b), 47 DCR 4639; June 21, 2003, D.C. Law 15-18, § 2(b), 50 DCR 3389; Dec. 7, 2004, D.C. Law 15-218, § 2(e), 51 DCR 9132; Oct. 18, 2007, D.C. Law 17-26, § 2(c), 54 DCR 8018; Mar. 25, 2009, D.C. Law 17-353, § 218, 56 DCR 1117; Feb. 4, 2010, D.C. Law 18-103, § 2(h), 56 DCR

9169; June 16, 2011, D.C. Law 19-7, § 2(b), 58 DCR 3882; Apr. 27, 2012, D.C. Law 19-124, § 501(g)(5), 59 DCR 1862; Dec. 13, 2013, D.C. Law 20-60, § 301(b), 60 DCR 15487.)

Section references. — This section is referenced in § 1-204.114, § 1-309.07, § 1-1001.08, § 1-1001.17, and § 38-2651.

Effect of amendments.

The 2013 amendment by D.C. Law 20-60 substituted "or by § 1-204.35(b), primary elections of each political party for the office of Chairman of the Council, Mayor and Attorney General" for a comma and "primary elections of each political party for the office of Mayor and Chairman" in (a)(3)(C); substituted "authorized by this subchapter or by § 1-204.35(b)" for "authorized by this subchapter" in (a)(4); and substituted "Delegate, member of the Council, Mayor, Attorney General, member of the Board of Education, or winner of a primary election for the office of Delegate, member of the Council, Mayor, or Attorney General" for "Delegate, Mayor, member of the Council, member of the Board of education, or winner of a primary election for the office of Delegate, Mayor, or member of the Council" in (d)(1).

Temporary Amendment of Section.

For temporary (225 days) amendment of this section, see § 2(b) of the Party Officer Elections Temporary Amendment of 2013 (D.C. Law 20-72, February 22, 2014, 61 DCR 30).

Emergency legislation.

For temporary addition of (a-1), see § 2 of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-598, January 16, 2013, 60 DCR 1015), applicable upon the inclusion of its fiscal effect in an approved budget and financial plan.

For temporary (90 days) amendment of this section, see § 2(b) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

For temporary (90 days) amendment of this section, see § 2(b) of the Party Officer Elections Emergency Amendment Act of 2013 (D.C. Act 20-210, November 7, 2013, 60 DCR 15781).

For temporary (90 days) amendment of this section, see §§ 2(b) and 3 of the Party Officer Elections Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-286, February 20, 2014, 61 DCR 1606).

Legislative history of Law 20-60. — See note to § 1-1001.08.

Editor's notes.

Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 301 of the act shall apply as of December 13, 2013.

§ 1-1001.11. Recount; judicial review of election.

(a)(1) The Board shall recount the votes cast in one or more voting precincts, if, within 7 days after the Board certifies the results of an election for an office, a candidate for that office petitions the Board in writing and specifies the precincts in which the recount shall be conducted. Before beginning the recount, the Board shall prepare an estimate of the costs and inform the petitioner of the anticipated number of hours needed to complete the recount and the cost per hour. The costs of the recount shall not include any payments associated for salaried election officials. If the petitioner chooses to proceed with the recount, the petitioner shall deposit the amount of $50 per precinct included in the recount. If the result of the election is changed as a result of the recount, the deposit shall be refunded. If the result is not changed, the Board shall determine the actual cost of the recount. The petitioner shall be liable for the actual cost of the recount and the Board may collect that cost from the deposit made with the petition.

(2) If in any election for President and Vice President of the United States, Delegate to the House of Representatives, Chairman of the Council, member of the Council, Mayor, Attorney General, President of the Board of Education, or member of the Board of Education, the results certified by the Board show a margin of victory for a candidate that is less than one percent of the total votes cast for the office, the Board shall conduct a recount. The cost of a recount conducted pursuant to this paragraph shall not be charged to any candidate.

(3) In the case of an initiative or referendum measure placed on the ballot pursuant to § 1-1001.16, or a recall measure placed on the ballot pursuant to § 1-1001.17, the Board shall conduct a recount if the difference between the number of votes for and against the initiative, referendum, or recall measure is less than one percent of the total votes cast.

(4) The Board shall issue regulations prescribing the procedures for the Board to:

(A) Provide notice of a recount to candidates for an office subject to a recount;

(B) Conduct a recount and certify the official result of an election, initiative, referendum, or recall measure which is the subject of the recount; and

(C) Ensure that each candidate for an office subject to a recount may designate watchers to be present while the recount is conducted, or in the case of an initiative, referendum, or recall measure, ensure that members of the public may be present while the recount is conducted.

(b)(1) Within 7 days after the Board certifies the results of an election, any person who voted in the election may petition the District of Columbia Court of Appeals to review the election. The Court's authority to review the results of an election shall include initiative, referendum, and recall measures as well as elections for a particular office.

(2) In response to such a petition, the Court may set aside the results certified and declare the true results of the election, or void the election in whole or in part. To determine the true results of an election, the Court may order a recount or take other appropriate action, whether or not a recount has been conducted or requested pursuant to subsection (a) of this section. The Court shall void an election only if it:

(A) Determines that the candidate certified as the winner of the election does not meet the qualifications required for office; or

(B) Finds that there was any act or omission, including fraud, misconduct, or mistake serious enough to vitiate the election as a fair expression of the will of the registered qualified electors voting in the election.

(3) If the Court voids an election, it may order a special election, which shall be conducted in such a manner, and at such time, as the Board may prescribe.

(4) The decision of the Court in any case brought pursuant to this subsection shall be final and may not be appealed.

(5) The Court shall have the authority to require the losing party to reimburse the prevailing party for reasonable attorneys' fees and other costs associated with the case, but shall not exercise this authority if it finds that the reimbursement would impose an undue financial hardship on the losing party.

(Aug. 12, 1955, 69 Stat. 703, ch. 862, § 11; Apr. 22, 1968, 82 Stat. 106, Pub. L. 90-292, § 4(8); Dec. 23, 1971, 85 Stat. 793, Pub. L. 92-220, § 1(22); Aug. 14, 1973, 87 Stat. 313, Pub. L. 93-92, § 1(20); Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; Sept. 13, 1980, D.C. Law 3-93, § 2, 27 DCR 3497; Mar. 16, 1982, D.C. Law 4-88, § 2(q)-(s), 29 DCR 458; June 28, 2002, D.C. Law 14-168, § 2,

49 DCR 4478; Feb. 4, 2010, D.C. Law 18-103,§ 2(i), 56 DCR 9169; Dec. 13, 2013, D.C. Law 20-60, § 301(c), 60 DCR 15487.)

Effect of amendments.

The 2013 amendment by D.C. Law 20-60 substituted "Delegate to the House of Representatives, Chairman of the Council, member of the Council, Mayor, Attorney General" for "Delegate to the House of Representatives, Mayor, Chairman of the Council, member of the Council" in (a)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2(c) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — See note to § 1-1001.08.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 301 of the act shall apply as of December 13, 2013.

§ 1-1001.15. Candidacy for more than 1 office prohibited; multiple nominations; candidacy of office-holder for another office restricted.

(a) No person shall be a candidate for more than one office on the Board of Education, the Council, Mayor, or Attorney General in any election for the members of the Board of Education, the Council, Mayor, or Attorney General, and no person shall be a candidate for more than one office on the Council, Mayor, or Attorney General in any primary election. If a person is nominated for more than 1 such office, he or she shall, within 3 days after the Board has sent him notice that he or she has been so nominated, designate in writing the office for which he or she wishes to run, in which case he or she will be deemed to have withdrawn all other nominations. In the event that such person fails within such 3-day period to file such a designation with the Board, all such nominations of such person shall be deemed withdrawn.

(b) Notwithstanding the provisions of subsection (a) of this section, a person holding the office of Delegate, Chairman or member of the Council, Mayor, Attorney General, or member of the Board of Education shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election. In the event that said person is elected in a general election to the office for which he or she is a candidate, that person shall, within 24 hours of the date that the Board certifies said person's election, pursuant to subsection (a)(11) of § 1-1001.05, either resign from the office that person currently holds or shall decline to accept the office for which he or she was a candidate. In the event that said person elects to resign, said resignation shall be effective not later than 24 hours before the date upon which that person would assume the office to which he or she has been elected.

(Aug. 12, 1955, 69 Stat. 704, ch. 862, § 15; as added Apr. 22, 1968, 82 Stat. 106, Pub. L. 90-292, § 4(9); Dec. 24, 1973, 87 Stat. 835, Pub. L. 93-198, title VII, § 751(9), (10); Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 2(j), (o), (q), 29 DCR 458; Mar. 14, 1985, D.C. Law 5-159, § 22, 32 DCR 30; Dec. 13, 2013, D.C. Law 20-60, § 301(d), 60 DCR 15487.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-60 substituted "No person shall be a candidate for more than one office on the Board of Education, the Council,

Mayor, or Attorney General in any election for the members of the Board of Education, the Council, Mayor, or Attorney General, and no person shall be a candidate for more than one office on the Council, Mayor, or Attorney General in any primary election" for "No person shall be a candidate for more than 1 office on the Board of Education or the Council or Mayor in any election for the members of the Board of Education or the Council or Mayor, and no person shall be a candidate for more than 1 office on the Council or for the Mayor in any primary election" in (a); and substituted "Delegate, Chairman or member of the Council, Mayor, Attorney General" for "Mayor, Delegate, Chairman or member of the Council" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(d) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — See note to § 1-1001.08.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 301 of the act shall apply as of December 13, 2013.

§ 1-1001.16. Initiative and referendum process.

(a)(1) Any registered qualified elector, or electors of the District of Columbia, who desire to submit a proposed initiative measure to the electors of the District of Columbia, or who desire to order that a referendum be held on any act, or on some part or parts of an act, that has completed the course of the legislative process within the District of Columbia government in accordance with § 1-204.04(e), shall file with the Board 5 printed or typewritten copies of the full text of the measure, a summary statement of not more than 100 words, and a short title of the measure to be proposed in an initiative, or of the act or part thereof on which a referendum is desired.

(2) The proposed initiative measure, or the act or part thereof, on which a referendum is desired shall be accompanied by:

(A) The name and address of the proposer; and

(B) An affidavit that the proposer is a registered qualified elector of the District of Columbia.

(b)(1) Upon receipt of each proposed initiative or referendum measure, the Board shall refuse to accept the measure if the Board finds that it is not a proper subject of initiative or referendum, whichever is applicable, under the terms of title IV of the District of Columbia Home Rule Act, or upon any of the following grounds:

(A) The verified statement of contributions has not been filed pursuant to §§ 1-1163.07 and 1-1163.09;

(B) The petition is not in the proper form established in subsection (a) of this section;

(C) The measure authorizes, or would have the effect of authorizing, discrimination prohibited under Chapter 14 of Title 2; or

(D) The measure presented would negate or limit an act of the Council of the District of Columbia pursuant to § 1-204.46.

(2) In the case of refusal to accept a measure, the Board shall endorse on the measure the words "received but not accepted" and the date, and retain the measure pending appeal. If none of the grounds for refusal exists, the Board shall accept the measure.

(3) If the Board refuses to accept any initiative or referendum measure submitted to it, the person or persons submitting such measure may apply, within 10 days after the Board's refusal to accept such measure, to the

Superior Court of the District of Columbia for a writ in the nature of mandamus to compel the Board to accept such measure. The Superior Court of the District of Columbia shall expedite consideration of the matter. If the Superior Court of the District of Columbia determines that the issue presented by the measure is a proper subject of initiative or referendum, whichever is applicable, under the terms of title IV of the District of Columbia Home Rule Act, and that the measure is legal in form, does not authorize discrimination as prescribed in paragraph (1)(C) of this subsection, and would not negate or limit an act of the Council of the District of Columbia as prescribed in paragraph (1)(D) of this subsection, it shall issue an order requiring the Board to accept the measure. Should the Superior Court of the District of Columbia hold in favor of the proposer, it may award court costs and reasonable attorneys' fees to the proposer.

(4) After subject determination has been made the Board shall assign a serial number to each initiative and referendum measure, using separate series of numbers for initiative and separate series of numbers for referendum measures. Thereafter, a measure shall be known and designated on all petitions, ballots and proceedings as "Initiative Measure No. ....." or "Referendum Measure No. .....".

(c) Within 20 calendar days, of the date on which the Board accepts an initiative or referendum measure, the Board shall:

(1) Prepare a true and impartial summary statement, not to exceed 100 words, bearing the serial number of the measure, and expressing the purpose of the measure. Such statement shall not intentionally create prejudice for or against the measure;

(2) Prepare a short title for the measure consisting of not more than 15 words to permit the voters to identify readily the initiative or referendum measure and to distinguish it from other measures which may appear on the ballot; and

(3) Prepare, in the proper legislative form, the proposed initiative or referendum measure, where applicable, which shall conform to the legislative drafting format of acts of the Council of the District of Columbia. The Board may consult experts in the field of legislative drafting, including, but not limited to, Corporation Counsel of the District of Columbia and officers of the Council of the District of Columbia for the purpose of preparing the measure in its proper legislative form.

(d) After preparation, the Board shall adopt the summary statement, short title, and legislative form at a public meeting and shall within 5 days, notify the proposer of the measure of the exact language. In addition, the Board, within 5 days of adoption, shall submit the summary statement, short title, and legislative form to the District of Columbia Register for publication.

(e)(1)(A) If any registered qualified elector of the District of Columbia objects to the summary statement, short title, or legislative form of the initiative measure formulated by the Board pursuant to subsections (c) and (d) of this section, that person may seek review in the Superior Court of the District of Columbia within 10 calendar days from the date the Board publishes the summary statement, short title, and legislative form in the

District of Columbia Register stating objections and requesting appropriate changes. The Superior Court of the District of Columbia shall expedite the consideration of this matter.

(B) If any registered qualified elector of the District of Columbia objects to the summary statement, short title, or legislative form of the referendum measure formulated by the Board pursuant to subsection (c) of this section, that person may seek review in the Superior Court of the District of Columbia within 10 calendar days from the date the Board publishes the summary statement, short title, and legislative form in at least one newspaper of general circulation stating objections and requesting appropriate changes. The Superior Court of the District of Columbia shall expedite the consideration of this matter.

(2) Should no review in the Superior Court of the District of Columbia be sought as provided in paragraph (1) of this subsection, the proposed summary statement, short title and legislative form shall be deemed to be accepted.

(3) Should the Superior Court of the District of Columbia hold in favor of the proposer, it may award court costs and reasonable attorney's fees to the proposer.

(f) When the summary statement, short title, and legislative form of an initiative or referendum measure has been established pursuant to subsection (e) of this section, the Board shall certify such and transmit a copy thereof by certified mail to the proposer. Thereafter, such short title shall be the title of the measure in all petitions, ballots, and other proceedings relating thereto. The Board shall, upon the request of any person, make single copies of the approved short title, summary statement, and full legislative text available at no charge. Additional copies shall be made available at a nominal cost.

(g) Upon final establishment of the summary statement, short title, and legislative form of an initiative or referendum proposal, the Board shall prepare and provide to the proposer at a public meeting an original petition form which the proposer shall formally adopt as his or her own form. The proposer shall print from the original blank petition sheets on white paper of good writing quality of the same size as the original. Each initiative or referendum petition sheet shall consist of one double-sided sheet providing numbered lines for 20 printed names and signatures with residence addresses (street numbers) and ward numbers, and shall have printed on it, in a manner prescribed by the Board, the following:

(1) A warning statement that declares that only duly registered voters of the District of Columbia may sign the petition;

(2) A statement that requests that the Board hold an election on the initiative or referendum measure that states the measure's serial number and short title; and

(3) The text of the official summary and short title of the measure printed on the front of the petition sheet.

(h) Each petition sheet for an initiative or referendum measure shall contain an affidavit, made under penalty of perjury, in a form determined by the Board and signed by the circulator of that petition sheet which contains the following:

(1) The printed name of the circulator;

(2) The residence address of the circulator, giving the street number;

(3) That the circulator of the petition sheet was in the presence of each person when the appended signature was written;

(4) That according to the best information available to the circulator, each signature is the genuine signature of the person it purports to be;

(5) That the circulator of the initiative or referendum petition sheet was a qualified petition circulator at the time of circulation.

(6) The dates between which the signatures to the petition were obtained.

(i) In order for any initiative or referendum measure to qualify for the ballot for consideration by the electors of the District of Columbia, the proposer of such an initiative or referendum measure shall secure the valid signatures of registered qualified electors upon the initiative or referendum measure equal in number to 5 percent of the registered electors in the District of Columbia: Provided, that the total signatures submitted include 5 percent of the registered electors in each of 5 or more of the 8 wards. The number of registered electors which is used for computing these requirements shall be consistent with the latest official count of registered electors made by the Board 30 days prior to the initial submission to the Board of the initiative or referendum measure, pursuant to subsection (a) of this section.

(j)(1) A proposer of an initiative measure shall have 180 calendar days, beginning on the 1st calendar day immediately following the date upon which the Board certifies, according to subsection (h) [subsection (f)] of this section, that the petition form of such initiative measure is in its final form to secure the proper number of valid signatures needed on the initiative petition to qualify such a measure for the ballot, pursuant to subsection (i) of this section and to file such petition with the Board.

(2) A proposer of a referendum measure shall secure the proper number of valid signatures needed on the referendum petition to qualify such a measure for the ballot pursuant to subsection (i) of this section, and shall file such petition with the Board before the act, or part thereof, which is the subject of the referendum has become law according to the provisions of §§ 1-204.04 and 1-206.02(c). No act is subject to referendum if it has taken effect according to the provisions of § 1-206.02(c).

(3) The proposer may not begin circulating an initiative or referendum petition until the Board has certified pursuant to subsection (h) [subsection (f)] of this section that such petition is in its final form.

(k)(1) Upon submission of an initiative or referendum petition by the proposer to the Board, the Board shall refuse to accept the petition upon any of the following grounds:

(A) The petition is not in the proper form established in subsection (g) of this section;

(B) The time limitation established in subsection (j) of this section within which the petition may be circulated and submitted to the Board has expired;

(C) The petition on its face clearly bears an insufficient number of signatures;

(D) The petition sheets do not have attached to them the statements of the circulators as provided in subsection (h) of this section; or

(E) The petition was circulated by persons who were not qualified petition circulators at the time of circulation.

(2) In the case of refusal to accept a petition, the Board shall endorse on the petition the words "submitted but not accepted" and the date, and retain the petition pending appeal. If none of the grounds for refusal exists, the Board shall accept the petition.

(l) If the Board refuses to accept an initiative or referendum petition when submitted to it, the person or persons submitting such petition may apply, within 10 days after the Board's refusal to accept such petition, to the Superior Court of the District of Columbia for a writ in the nature of mandamus to compel the Board to accept such petition. The Superior Court of the District of Columbia shall expedite the consideration of the matter. If the Superior Court of the District of Columbia determines that the petition is legal in form and apparently meets the requirement for signatures, both as to number and as to ward distribution, prescribed in subsection (i) of this section, and was submitted within the time limitations established in subsection (j) of this section, and has attached to the petition the proper statements of the circulators prescribed in subsection (h) of this section, it shall issue an order requiring the Board to accept the petition as of the date of submission for filing. Should the Superior Court of the District of Columbia hold in favor of the proposer, it may award court costs and reasonable attorneys' fees to the proposer.

(m) Upon submission of a referendum petition to the Board, the Board shall notify the appropriate custodian of the act of the Council of the District of Columbia which is the subject of the referendum (either the President of the Senate and the Speaker of the House of Representatives) as provided in §§ 1-204.04 and 1-204.46 and the President of the Senate and the Speaker of the House of Representatives shall, as appropriate, return such act or part or parts of such act to the Chairman of the Council of the District of Columbia. No further action may be taken upon such act until after a referendum election is held. If, however, after the counting and validation procedure for signatures, which takes place pursuant to subsection (o) of this section, the referendum measure fails to meet the percentage and distribution requirements for signatures established in subsection (i) of this section, the act which was the subject of the referendum shall be again transmitted to the Congress for review as provided in § 1-206.02(c).

(n) When the Board accepts an initiative or referendum petition, whether in the normal course or at the direction of a court, the Board may detach, in the presence of the person submitting the petition or his or her designated representative, if he or she desires to be present, the sheets containing the signatures, and cause all of them to be firmly attached to 1 or more printed copies of the proposed initiative or referendum measure in such books or volumes as will be most convenient for counting, canvassing, and validating names and signatures.

(o)(1) After acceptance of an initiative or referendum petition, the Board shall certify, within 30 calendar days after such petition has been accepted,

whether or not the number of valid signatures on the initiative or referendum petition meets the qualifying percentage and ward distribution requirements established in subsection (i) of this section, and whether or not the necessary number of names and signatures of registered qualified electors of the District of Columbia, properly distributed by wards, appear on the initiative or referendum petition. This certification may be by a bona fide random and statistical sampling method. If the Board finds that the same person has signed a petition for the same initiative or referendum measure more than once, it shall count only 1 signature of such person. If a person who signs a petition is found to be a qualified registered elector in a ward other than that which was indicated on the petition sheet, such person shall be counted from the correct ward in determining whether or not an initiative or referendum measure qualifies for the ballot. Two persons representing the proposer(s) may be present during the counting and validation procedures. Should a political committee or committees exist in opposition to a particular proposed initiative or referendum measure, 2 persons representing such committee or committees may be present during the counting and validation procedures. The Board shall post, by making available for public inspection, petitions for initiatives or referenda, or facsimiles thereof, in the office of the Board, for 10 days, including Saturdays, Sundays, and holidays, beginning on the 3rd day after the petitions are filed. Any qualified elector may, within such 10-day period, challenge the validity of any petition, by a written statement duly signed by the challenger and filed with the Board, specifying concisely the alleged defects in such petition. The provisions of § 1-1001.08(o)(2) shall be applicable to such challenge. The Board may issue supplemental rules concerning the challenge of such petitions.

(2) For the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine that the address on the petition is the same as the residence shown on the signer's voter registration record. If the address is different, the signature shall not be counted as valid unless the Board's records show that the person was registered to vote from the address listed on the petition at the time the person signed the petition.

(p)(1) After determining that the number and validity of signatures on the initiative or referendum petition meet the qualification standards established under this section, the Board shall certify the sufficiency of the initiative or referendum petition and shall certify that the initiative or referendum measure will appear on the ballot. The Board shall conduct an election on an initiative measure at the next primary, general, or city-wide special election held at least 90 days after the date on which the measure has been certified as qualified to appear on the ballot. The Board shall conduct an election on a referendum measure within 114 days after the date the measure has been certified as qualified to appear on the ballot. In the case of a referendum measure, if a previously scheduled general, primary, or special election will occur between 54 and 114 days after the date the measure has been certified as qualified to appear on the ballot, the Board may present the referendum measure at that election.

(2) The Board shall publish the established legislative text of an initiative or referendum measure in no less than 2 newspapers of general circulation in

the District of Columbia within 30 calendar days after the date upon which the Board certifies, pursuant to paragraph (1) of this subsection, that the measure has qualified for appearance on an election ballot.

(q)(1) Upon qualification of an initiative measure, the Board shall place on the ballot the serial number of the initiative and its short title and summary statement in substantially the following form:

INITIATIVE MEASURE No.
(SHORT TITLE)
(SUMMARY STATEMENT)
FOR Initiative Measure No.
AGAINST Initiative Measure No.

(2) Upon qualification of a referendum measure, the Board shall place on the ballot the serial number of the referendum measure and its short title and summary statement in substantially the following form:

REFERENDUM MEASURE No.
(SHORT TITLE)
(SUMMARY STATEMENT)

(A) If the referendum concerns whether the registered voters of the District of Columbia approve or reject the act, then the ballot shall state:

Shall the registered voters of the District of Columbia approve or reject Act (insert Act number)?

YES, to approve

NO, to reject.

(B) If the referendum concerns part or parts of an act, then the ballot shall state:

Shall the registered voters of the District of Columbia approve or reject sections (insert section(s) that is the subject of the referendum measure) of Act (insert Act number)?

YES, to approve

NO, to reject.

(r)(1) An initiative measure which has been ratified by a majority of the registered qualified electors voting on the measure shall not take effect until the end of the 30-day congressional review period (excluding Saturdays, Sundays and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than 3 days or an adjournment of more than 3 days) beginning on the day such measure is transmitted to the Speaker of the House of Representatives and the President of the Senate, and then only if during such 30-day period both Houses of Congress do not adopt a concurrent resolution disapproving such initiated act. Upon certification by the Board that the initiative measure has been ratified, the Chairman of the Council shall forthwith transmit the measure to the Speaker of the House of Representatives and to the President of the Senate.

(2) If a majority of the registered qualified electors voting in a referendum on an act or part or parts thereof vote to disapprove the act or part or parts

thereof, then such action shall be deemed a rejection of the act or part or parts thereof, and no action by the Council of the District of Columbia may be taken on such act or part thereof for 365 days following the date when the Board certifies the vote concerning the referendum.

(s) If provisions of 2 or more initiative or referendum measures which have been approved by the registered qualified electors at the same election conflict, the provisions of the measure receiving the highest number of affirmative votes shall prevail over the conflicting provision of the other measure.

(Aug. 12, 1955, 69 Stat. 704, ch. 862, § 16, as added June 7, 1979, D.C. Law 3-1, § 2(c), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 2(k), (o), (q), (s), 29 DCR 458; Mar. 16, 1988, D.C. Law 7-92, § 3(n), 35 DCR 716, May 10, 1989, D.C. Law 7-231, § 5, 36 DCR 492; Mar. 11, 1992, D.C. Law 9-75, § 2(e), 39 DCR 310; Feb. 5, 1994, D.C. Law 10-68, § 7(c), 40 DCR 6311; Sept. 22, 1994, D.C. Law 10-173, § 2(g), 41 DCR 5154; July 25, 1995, D.C. Law 11-30, § 2(e), 42 DCR 1547; March 31, 2000, D.C. Law 13-64, § 2, 46 DCR 9219; Apr. 27, 2012, D.C. Law 19-124, § 501(g)(6), 59 DCR 1862; Oct. 17, 2013, D.C. Law 20-31, § 2(c), 60 DCR 11535.)

Section references. — This section is referenced in § 1-1001.07, § 1-1001.11, § 1-1001.14, § 1-1001.17, § 1-1021.03, § 1-1021.04, and § 1-1163.11.

Effect of amendments.

The 2013 amendment by D.C. Law 20-31 substituted "was a qualified petition circulator at the time of circulation" for "is a resident of the District of Columbia and at least 18 years of age; and" in (h)(5); and substituted "qualified petition circulators" for "residents of the District of Columbia and at least 18 years of age" in (k)(1)(E).

Emergency legislation.

For temporary amendment of (h)(5) and (k), see § 2(b) of the Board of Elections Petition Circulation Requirements Emergency Amendment Act of 2012 (D.C. Act 19-587, January 7, 2013, 60 DCR 977).

Legislative history of Law 20-31. — See note to § 1-1001.02.

§ 1-1001.17. Recall process.

(a) The provisions of this section shall govern the recall of all elected officers of the District of Columbia except the Delegate to the Congress from the District of Columbia.

(b)(1) Any registered qualified elector or electors desiring to initiate the recall of an elected officer shall file a notice of intention to recall that officer with the Board, which contains the following information:

(A) The name and title of the elected officer sought to be recalled;

(B) A statement not to exceed 200 words in length, giving the reasons for the proposed recall;

(C) The name and address of the proposer of the recall; and

(D) An affidavit that each proposer is:

(i) A registered qualified elector in the election ward of the elected officer whose recall is sought, if that officer was elected to represent a ward;

(ii) A registered qualified elector in the District of Columbia, if the officer whose recall is sought was elected at-large; or

(iii) A registered qualified elector in the single-member district of an Advisory Neighborhood Commissioner whose recall is sought.

(2) A separate notice of intention shall be filed for each officer sought to be recalled.

(c)(1) No recall proceedings shall be initiated for an elected officer during the 1st 365 days nor during the last 365 days of his term of office.

(2) The recall process for an elected officer may not be initiated within 365 days after a recall election has been determined in his or her favor.

(3) In the case of an Advisory Neighborhood Commissioner, no recall proceedings shall be initiated during the first 6 months or the last 6 months of the Commissioner's term of office, nor within 6 months after a recall election has been decided in favor of the Commissioner.

(d)(1) The Board shall serve, in person or by certified mail, the notice of intention to recall to the elected officer sought to be recalled within 5 calendar days.

(2) The elected officer sought to be recalled may file with the Board, within 10 calendar days after the filing of the notice of intention to recall, a response of not more than 200 words, to the statement of the proposer of recall. If an answer is filed, the Board shall serve immediately a copy of that response to the proposer named in the notice of intention to recall.

(3) The statement contained in the notice of intention to recall and the elected officer's response are intended solely for the information of the voters. No insufficiency in form or substance of such statement shall affect the validity of the election proceedings.

(e) Upon filing with the Board the notice of intention of recall and the elected officer's response, the Board shall prepare and provide to the proponent an original petition form which the proposer shall formally adopt as his or her own form. The proponent shall print from the original blank petition sheets on white paper of good writing quality of the same size as the original. Each recall petition sheet shall be double sided and consist of numbered lines for 20 names and signatures with residence address (street numbers), and, where applicable, the ward numbers, and shall have printed on it the following:

(1) A warning statement that declares that only duly registered electors of the District of Columbia may sign the petition;

(2) The name of the elected officer sought to be recalled and the office which he or she holds;

(3) A statement that requests that the Board hold a recall election in a manner prescribed in §§ 1-204.111 to 1-204.115;

(4) The name and address of the proposer or proposers of the recall; and

(5) The statement of grounds for the recall and the response of the officer sought to be recalled, if any. If the officer sought to be recalled has not responded, the petition shall so state.

(f) Each petition sheet or sheets for recall shall have attached to it, at the time of submission to the Board, a statement made under penalties of perjury, in a form determined by the Board signed by the circulator of that petition which contains the following:

(1) The printed name of the circulator;

(2) The residence address of the circulator giving the street and number;

(3) That the circulator of the petition form was in the presence of each person when the appended signature was written;

(4) That according to the best information available to the circulator, each signature is the genuine signature of the person whose name it purports to be;

(5) That the circulator of the recall petition was a qualified petition circulator at the time of circulation; and

(6) The dates between which all the signatures to the petition were obtained.

(g) The proposer of a recall shall have 180 days or, in the case of a proposed recall of an Advisory Neighborhood Commissioner, 60 days, beginning on the date when the proponent of the recall formally adopts the original petition form as his or her own form pursuant to subsection (e) of this section, to circulate the recall petition and file the petition with the Board.

(h)(1) A recall petition for an elected officer from a ward shall include the valid signatures of 10 percent of the registered qualified electors of the ward from which the officer was elected. The 10 percent shall be computed from the total number of the qualified registered electors from such ward according to the latest official count of the registered qualified electors made by the Board 30 days prior to the date of initial submission to the Board of the notice of intention to recall.

(2) A recall petition for an at-large elected official shall contain the signatures of registered qualified electors in number equal to 10 percent of the registered qualified electors in the District of Columbia: Provided, that the total signatures submitted include 10 percent of the registered electors in each of 5 or more of the 8 wards. The 10 percent shall be computed from the total number of registered qualified electors from the District of Columbia according to the same procedures established in paragraph (1) of this subsection.

(3) A recall petition for an elected officer from a single-member district shall include the valid signatures of 10% of the registered qualified electors of the single-member district from which the officer was elected, except when the elected officer has missed all regularly scheduled meetings of the Advisory Neighborhood Commission of which the single-member district is a part for at least a three-month period, in which case the recall petition must only include the valid signatures of 5% of the registered qualified electors of the single-member district from which the officer was elected. The 5% or 10% shall be computed from the total number of registered qualified electors from the single-member district in accordance with the same procedures established in paragraph (1) of this subsection.

(i) Upon the submission of a recall petition by the proposer to the Board, the Board shall refuse to accept the petition upon any of the following grounds:

(1) Except in the case of a recall petition for an Advisory Neighborhood Commissioner, the financial disclosure statement of the proposer has not been filed pursuant to §§ 1-1163.07 and 1-1163.09;

(2) The petition is not the proper form established in subsection (e) of this section;

(3) The restrictions for initiating the recall process established in subsection (c) of this section were not observed;

(4) The time limitation established in subsection (g) of this section within which the recall petition may be circulated and submitted to the Board has expired;

(5) The petition clearly bears on its face an insufficient number of signatures to qualify for the ballot; or

(6) The petition was circulated by persons who were not qualified petition circulators at the time of circulation.

(j)(1) If the Board refuses to accept the recall petition when submitted to it, the proposer submitting such petition to the Board may appeal, within 10 days after the Board's refusal, to the Superior Court of the District of Columbia for a writ in the nature of mandamus to compel the Board to accept such recall petition. The Superior Court of the District of Columbia shall expedite the consideration of the matter. If the Superior Court of the District of Columbia determines that the petition is legal in form and apparently meets the requirements established under this section, it shall issue an order requiring the Board to accept the petition as of the date of submission.

(2) Should the Superior Court of the District of Columbia hold in favor of the proposer, it may award court costs and reasonable attorney's fees to the proposer.

(k)(1) After the acceptance of a recall petition, the Board shall certify, within 30 calendar days after such petition has been filed, whether or not the number of valid signatures on the recall petition meets the qualifying percentage and ward distribution requirements established in subsection (h) of this section and whether or not the necessary number of signatures of registered qualified electors of the District of Columbia, properly distributed by wards, appears on the petition. This certification may be made by a bona fide random and statistical sampling method. In a case in which an officer elected from a ward is sought to be recalled, if a person who signs a recall petition for that elected officer is found not to be a registered qualified elector in the ward indicated on the petition, that name and signature shall not be counted toward determining whether or not the recall measure qualifies. In a case in which an officer elected at-large is sought to be recalled, if a person who signs a recall petition for that elected officer is found to be a registered qualified elector in a ward other than what was indicated on the petition sheet, such person shall be counted from the correct ward in determining whether or not a recall measure for an at-large elected officer qualified. In a case in which an Advisory Neighborhood Commissioner is sought to be recalled, if a person who signs a petition to recall that Advisory Neighborhood Commissioner is found not to be a registered qualified elector in the single-member district indicated on the petition, the person's name and signature shall not be counted toward determining whether or not the recall measure qualifies. If the Board finds that the same person has signed a petition for the same recall measure more than once, it shall count only 1 signature of such person. Two persons representing the petitioner(s) seeking the recall and 2 persons representing the elected officer sought to be recalled may be present to observe during the counting and validating procedure.

(2) The Board shall post, within 3 calendar days after the acceptance of a recall petition, whether in the normal course or at the direction of a court, by making available for public inspection in the office of the Board, the petition for the recall measure or facsimile. Any registered qualified elector, during a 10-day period (including Saturdays, Sundays, and holidays, except that with

respect to a petition to recall a member of an Advisory Neighborhood Commission SMD, the 10-day period shall not include Saturdays, Sundays, and holidays), beginning on the day the recall petition was posted by the Board, may challenge the validity of such petition by a written statement duly signed by the challenger and filed with the Board, specifying concisely the alleged defects in the petition. The provisions of § 1-1001.08(o)(2) shall be applicable to a challenge and the Board may establish any necessary rules and regulations consistent that concerns the process of the challenge.

(3) For the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine that the address on the petition is the same as the residence shown on the signer's voter registration record. If the address is different, the signature shall not be counted as valid unless the Board's records show that the person was registered to vote from the address listed on the petition at the time the person signed the petition.

(l) After determining that the number and validity of signatures in the recall petition meet the requirements established in this section, the Board shall certify the sufficiency of such recall petition and shall fix the date of a special election to determine whether the elected officer who is the subject of the recall shall be removed from his or her office. The Board shall conduct an election for this purpose within 114 days after the date the petition to recall has been certified as to its sufficiency. If a previously scheduled general, primary, or special election will occur between 54 and 114 days after the date the petition to recall has been certified as to its sufficiency, the Board may present the recall measure at that election. In the case of a proposed recall of an officer elected to represent a particular ward, the recall election shall be conducted only in that ward. In the case of a proposed recall of an Advisory Neighborhood Commissioner, the recall election shall be conducted in one of the following manners unless conducted in accordance with a previously scheduled general, primary, or special election pursuant to this subsection:

(1)(A) In the single-member district represented by the Advisory Neighborhood Commissioner at the voting precinct containing the majority of the registered qualified electors; or

(B) If the voting precinct is unavailable, at an appropriate alternative site within the single-member district;

(2) By postal ballot by mailing by 1st class mail no later than 7 days prior to the date of the election an official ballot issued by the Board. The ballots shall be mailed to each qualified registered elector in the single-member district at the address at which the elector is registered, except for those persons who have made arrangements with the Board for absentee voting pursuant to § 1-1001.09(b)(2). The Board shall, pursuant to § 1-1001.05(a)(14), issue rules to implement the provisions of this paragraph. The ballots shall be printed with prepaid 1st class postage and shall be postmarked no later than midnight of the day of the election.

(3) A special election called to consider the recall of an Advisory Neighborhood Commissioner shall not be considered an election for the purposes of § 1-1001.16(p).

(m) The Board shall place the recall measure on the ballot in substantially the following form:

FOR the recall of (insert the name of the elected officer and the office held) .....
AGAINST the recall of (insert the name of the elected officer and the office held) .....

(n) Based on the results of the special election held to decide the outcome of the recall measure, the elected officer sought to be recalled shall be removed from that office: Provided, that a majority of the qualified electors voting in the recall election vote to remove him or her. The vacancy, as created by the removal, shall be filled in the same manner as other vacancies, as provided in §§ 1-204.01(b)(3) and (d), 1-204.21(c)(2), 1-309.06(d), and 1-1001.10.

(Aug. 12, 1955, 69 Stat. 704, ch. 862, § 17, as added June 7, 1979, D.C. Law 3-1, § 2(d), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 2(l), (n)-(q), (s), 29 DCR 458; Mar. 16, 1988, D.C. Law 7-92, § 3(o), 35 DCR 716; Mar. 6, 1991, D.C. Law 8-203, § 2, 37 DCR 8420; Mar. 11, 1992, D.C. Law 9-75, § 2(f), 39 DCR 310; Sept. 22, 1994, D.C. Law 10-173, § 2(h), (i), 41 DCR 5154; Apr. 18, 1996, D.C. Law 11-110, § 5(b), 43 DCR 530; Apr. 9, 1997, D.C. Law 11-255, § 6(b), 44 DCR 1271; June 27, 2000, D.C. Law 13-135, § 6, 47 DCR 2741; Feb. 4, 2010, D.C. Law 18-103, § 2(j), 56 DCR 9169; Apr. 27, 2012, D.C. Law 19-124, § 501(g)(7), 59 DCR 1862; Oct. 17, 2013, D.C. Law 20-31, § 2(d), 60 DCR 11535.)

Section references. — This section is referenced in § 1-123, § 1-1001.07, § 1-1001.09, § 1-1001.11, § 1-1001.14, § 1-1021.04, and § 1-1163.11.

Effect of amendments.

The 2013 amendment by D.C. Law 20-31 substituted "was a qualified petition circulator at the time of circulation; and" for "is a registered elector of the electoral jurisdiction of the officer sought to be recalled; and" in (f)(5); and rewrote (i)(6), which read: "The petition was circulated by persons who, if the officer sought to be recalled was elected at-large, were not qualified registered electors of the District of Columbia or if the officer sought to be recalled was elected from a ward, qualified registered electors of that ward, or if the officer sought to be recalled was elected from an Advisory Neighborhood Commission SMD, qualified registered electors of that SMD."

Emergency legislation.

For temporary amendment of (i)(6), see § 2(c) of the Board of Elections Petition Circulation Requirements Emergency Amendment Act of 2012 (D.C. Act 19-587, January 7, 2013, 60 DCR 977).

Legislative history of Law 20-31. — See note to § 1-1001.02.

Subchapter V. Election Area Boundaries.

§ 1-1041.03. Adoption of election ward boundaries effective January 1, 2012.

(a) Notwithstanding § 1-1011.01(h), and notwithstanding any other provision, the Council adopts the following election ward boundaries to be effective January 1, 2012, and to be used in all elections held after February 1, 2012, in the District of Columbia:

WARD I

Starting at the intersection of a line projected from Rock Creek to Piney Branch Parkway N.W.; thence in an easterly direction along said Piney Branch Parkway, N.W., to Sixteenth Street, N.W.; thence south along said Sixteenth

Street, N.W., to Spring Road, N.W.; thence in an easterly direction along said Spring Road, N.W., to New Hampshire Avenue, N.W.; thence in a northeasterly direction along said New Hampshire Avenue, N.W., to Rock Creek Church Road, N.W.; thence in an easterly direction along said Rock Creek Church Road, N.W., to Park Place, N.W.; thence south along said Park Place, N.W., to Michigan Avenue, N.W.; thence in an easterly direction along said Michigan Avenue, N.W., to First Street, N.W.; thence south along said First Street, N.W., to Bryant Street, N.W.; thence in a westerly direction along said Bryant Street, N.W., to Second Street, N.W.; thence south along said Second Street, N.W., to Rhode Island Avenue, N.W.; thence in a westerly direction along said Rhode Island Avenue, N.W., to Florida Avenue, N.W.; thence in a westerly direction along said Florida Avenue, N.W., to T Street, N.W.; thence in a westerly direction along said T Street, N.W., to Wiltberger Street, N.W.; thence in a southerly direction along said Wiltberger Street, N.W., to S Street, N.W.; thence west along said S Street, N.W., to Fourteenth Street, N.W.; thence north along said Fourteenth Street, N.W., to U Street, N.W.; thence west along said U Street, N.W., to Florida Avenue, N.W.; thence in a southwesterly direction along said Florida Avenue, N.W., to Connecticut Avenue, N.W.; thence in a northwesterly direction along said Connecticut Avenue, N.W., to the center line of Rock Creek; thence in a northeasterly direction along said Rock Creek to the intersection of a line projected from the end of Piney Branch Parkway; thence along said projected line to Piney Branch Parkway, N.W.

WARD II

Starting at the intersection of the center line of Connecticut Avenue, N.W., and the center line of Rock Creek; thence southeasterly along said Connecticut Avenue, N.W., to Florida Avenue, N.W.; thence in an easterly direction along said Florida Avenue, N.W., to U Street, N.W.; thence east along said U Street, N.W., to Fourteenth Street, N.W.; thence south along said Fourteenth Street, N.W., to S Street, N.W.; thence east along said S Street, N.W., to Eleventh Street, N.W.; thence south along said Eleventh Street, N.W., to P Street, N.W.; thence east along said P Street, N.W., to Ninth Street, N.W.; thence south along Ninth Street, N.W., to N street, N.W.; thence east along N Street, N.W., to the alley running along the eastern side of the Washington Convention Center; thence south along said alley to M Street, N.W.; thence east along said M Street, N.W., to Seventh Street, N.W.; thence south along Seventh Street, N.W., to Massachusetts Avenue, N.W.; thence along said Massachusetts Avenue, N.W., to the eastern boundary of Interstate 395; thence south along the said eastern boundary of Interstate 395 to the point where it crosses beneath Constitution Avenue, N.W.; thence east along said Constitution Avenue, N.W., to its intersection with a line extending north from the center line of South Capitol Street through the center of the Capitol building; thence south along said line to Independence Avenue, S.W.; thence west along said Independence Avenue, S.W., to Fourteenth Street, S.W.; thence south along said Fourteenth Street, S.W., to a center line projection of the Washington Channel; thence in a southerly direction along the center line projection of Washington Channel to

a center line projection of the Anacostia River; thence southwesterly along the center line of said Anacostia River and the projection of that center line to the Commonwealth of Virginia-District of Columbia boundary line at the Commonwealth of Virginia shore of the Potomac River; thence in a northwesterly direction along said Commonwealth of Virginia-District of Columbia boundary line to its intersection with a line extending the eastern boundary of Glover Archbold Park south to the Commonwealth of Virginia shore of the Potomac River; thence in a northerly direction from said boundary line to the southern boundary of the eastern leg of Glover Archbold Park; thence in an easterly direction along the southern boundary of the eastern leg of Glover Archbold Park to Whitehaven Parkway, N.W.; thence east along Whitehaven Parkway, N.W., to Thirty-Fifth Street, N.W.; thence in a northerly direction along said Thirty-Fifth Street, N.W., to Wisconsin Avenue, N.W.; thence in a southeasterly direction along said Wisconsin Avenue, N.W., to Whitehaven Street, N.W.; thence in an easterly direction along said Whitehaven Street, N.W., to the northwest boundary of Dumbarton Oaks Park; thence in an easterly direction along said northwest boundary of Dumbarton Oaks Park to Whitehaven Street, N.W.; thence in an easterly direction along said Whitehaven Street, N.W., to Massachusetts Avenue, N.W.; thence in a southeasterly direction along said Massachusetts Avenue, N.W., to the center line of Rock Creek; thence in a northeasterly direction along said center line of Rock Creek to the point of beginning at its intersection with Connecticut Avenue, N.W.

WARD III

Starting at the intersection of the State of Maryland-District of Columbia boundary line and the center line of Broad Branch Road, N.W.; thence in a southerly direction along said Broad Branch Road to Twenty-Seventh Street, N.W.; thence in a northerly direction along said Twenty-Seventh Street, N.W., to Military Road, N.W.; thence in an easterly direction along said Military Road, N.W., to the center line of Rock Creek; thence in a southerly direction along Rock Creek to its intersection with the center line of Massachusetts Avenue, N.W.; thence in a northwesterly direction along said Massachusetts Avenue, N.W., to Whitehaven Street, N.W.; thence west along said Whitehaven Street, N.W., to the northwestern boundary of Dumbarton Oaks Park; thence in a westerly direction along said northwestern boundary of said Dumbarton Oaks Park to Whitehaven Street, N.W.; thence in a westerly direction along said Whitehaven Street, N.W., to Wisconsin Avenue, N.W.; thence in a northwesterly direction along said Wisconsin Avenue, N.W., to Thirty-Fifth Street, N.W.; thence south along said Thirty-Fifth Street, N.W., to Whitehaven Parkway, N.W.; thence west along said Whitehaven Parkway, N.W., to the southern boundary of the eastern leg of Glover Archbold Park; thence in a westerly direction along said southern boundary of the eastern leg of Glover Archbold Park to a point where it intersects with the eastern boundary of Glover Archbold Park; thence in a southerly direction along the eastern boundary of Glover Archbold Park, extending said boundary along a line south to the Commonwealth of Virginia shore of the Potomac River; thence in a

northwesterly direction along said Commonwealth of Virginia-District of Columbia boundary line where it follows the Commonwealth of Virginia shore of the Potomac River to the western corner of the District of Columbia; thence in a northeasterly direction along the State of Maryland-District of Columbia boundary line to the point of beginning at its intersection with Broad Branch Road, N.W.

WARD IV

Starting at the intersection of the State of Maryland-District of Columbia boundary line and the center line of Broad Branch Road, N.W.; thence in a southerly direction along said Broad Branch Road to Twenty-Seventh Street, N.W.; thence in a northerly direction along said Twenty-Seventh Street, N.W., to Military Road, N.W.; thence in an easterly direction along said Military Road, N.W., to the center line of Rock Creek; thence along said Rock Creek to the intersection of a line projected from the end of Piney Branch Parkway; thence along said projected line to Piney Branch Parkway N.W.; thence in an easterly direction along said Piney Branch Parkway, N.W., to Sixteenth Street, N.W.; thence south along said Sixteenth Street, N.W., to Spring Road, N.W.; thence in an easterly direction along said Spring Road, N.W., to New Hampshire Avenue, N.W.; thence in a northeasterly direction along said New Hampshire Avenue, N.W., to Rock Creek Church Road, N.W.; thence in a northeasterly direction along said Rock Creek Church Road, N.W., to North Capitol Street, N.W.; thence in a northerly direction along said North Capitol Street to Riggs Road, N.E.; thence in a northeasterly direction along said Riggs Road, N.E., to South Dakota Avenue, N.E.; thence in a southeasterly direction along said South Dakota Avenue, N.E., to Kennedy Street, N.E.; thence in an easterly direction along said Kennedy Street, N.E., to the intersection of its center line with the State of Maryland-District of Columbia boundary line; thence in a northwesterly direction along said boundary line to the northern corner of the District of Columbia; thence in a southwesterly direction along said State of Maryland-District of Columbia boundary line to the point of beginning at its intersection with the center line of Broad Branch Road, N.W.

WARD V

Starting at the intersection of First Street, N.W., and Michigan Avenue, N.W.; thence south along said First Street, N.W., to Bryant Street, N.W.; thence in a westerly direction along said Bryant Street, N.W., to Second Street, N.W.; thence south on said Second Street, N.W., to Rhode Island Avenue, N.W.; thence in a westerly direction along said Rhode Island Avenue, N.W., to Florida Avenue, N.W.; thence in a northwesterly direction along said Florida Avenue, N.W., to New Jersey Avenue, N.W.; thence in a southerly direction along said New Jersey Avenue, N.W., to N Street, N.W.; thence east along said N Street, N.W., to Kirby Street, N.W.; thence south along said Kirby Street, N.W., to New York Avenue, N.W.; thence in an easterly direction along said New York Avenue, N.W., to New York Avenue, N.E., to Florida Avenue, N.E.; thence in an easterly direction along said Florida Avenue, N.E., to Benning Road, N.E.;

thence in an easterly direction along said Benning Road, N.E., to the center line of the Anacostia River; thence in a northerly direction along the Anacostia River to the intersection of its center line with the State of Maryland-District of Columbia boundary line; thence in a northwesterly direction along said boundary line to Kennedy Street, N.E.; thence in a westerly direction along said Kennedy Street, N.E., to South Dakota Avenue, N.E.; thence in a northwesterly direction along said South Dakota Avenue, N.E., to Riggs Road, N.E.; thence in a westerly direction along Riggs Road, N.E., to North Capitol Street; thence in a southerly direction along said North Capitol Street to Rock Creek Church Road, N.W.; thence in a southwesterly direction along said Rock Creek Church Road, N.W., to Park Place, N.W.; thence south along said Park Place, N.W., to Michigan Avenue, N.W.; thence in an easterly direction along said Michigan Avenue, N.W., to the point of beginning at its intersection with First Street, N.W.

WARD VI

Starting at the intersection of North Capitol Street and New York Avenue, N.W.; thence southwesterly along New York Avenue, N.W., to Kirby Street, N.W.; thence north along said Kirby Street, N.W., to N Street, N.W.; thence west along said N Street, N.W., to New Jersey Avenue. N.W.; thence northwesterly along said New Jersey Avenue, N.W., to Florida Avenue, N.W.; thence in a northwesterly direction along said Florida Avenue, N.W., to T Street, N.W.; thence in a westerly direction along said T Street, N.W., to Wiltberger Street, N.W.; thence in a southerly direction along said Wiltberger Street, N.W., to S Street, N.W.; thence west along said S Street, N.W., to Eleventh Street, N.W.; thence south along said Eleventh Street, N.W., to P Street, N.W.; thence east said P Street, N.W., to Ninth Street, N.W.; thence in a south along said Ninth Street, N.W., to N Street, N.W.; thence east along said N street, N.W., to the alley running along the eastern side of the Washington Convention Center; thence south along said alley to M Street, N.W.; thence east along said M Street, N.W., to Seventh Street, N.W.; thence south along Seventh Street, N.W., to Massachusetts Avenue, N.W.; to the eastern boundary of Interstate 395; thence south along the said eastern boundary of Interstate 395 to the point where it crosses beneath Constitution Avenue, N.W.; thence east along said Constitution Avenue, N.W., to its intersection with a line extending north from the center line of South Capitol Street through the center of the Capitol building; thence south along said line to Independence Avenue, S.W.; thence west along said Independence Avenue, S.W., to Fourteenth Street, S.W.; thence south along said Fourteenth Street, S.W., to a center line projection of the Washington Channel; thence in a southerly direction along the center line projection of Washington Channel to a center line projection of the Anacostia River; thence in a northeasterly direction along said center line of the Anacostia River to a line extending from the northern property line of the eastern portion of Congressional Cemetery; thence in a westerly direction along said boundary of the Congressional Cemetery to its intersection with Nineteenth Street, S.E.; thence north along said Nineteenth Street, S.E., to

East Capitol Street; thence east along the northern portion of East Capitol Street to Twenty-Second Street N.E.; thence in a northerly direction along said Twenty-Second Street N.E., to C Street N.E.; thence west along said C Street N.E., to Nineteenth Street N.E.; thence north along said Nineteenth Street, N.E., to Benning Road, N.E.; thence in a westerly direction along said Benning Road, N.E., to Florida Avenue, N.E.; thence in a northwesterly direction along Florida Avenue, N.E., to New York Avenue, N.E., and west along New York Avenue, N.E., to the point of beginning at its intersection with North Capitol Street.

WARD VII

Starting at the intersection of the State of Maryland-District of Columbia boundary line and the center line of the Anacostia River; thence in a southerly direction along the center line of said Anacostia River to Benning Road, N.E.; thence in a northwesterly direction along said Benning Road to Nineteenth Street, N.E; thence in a southerly direction along said Nineteenth Street, N.E., to C Street N.E.; thence east along said C Street N.E., to Twenty-Second Street N.E.; thence south along Twenty-Second Street N.E., to the northern portion of East Capitol Street; thence west along said East Capitol Street to Nineteenth Street S.E.; thence south along said Nineteenth Street S.E., to its intersection with the property line of Congressional Cemetery; thence in an easterly direction along said property line to its easternmost point and continuing east on the same bearing to the centerline of the Anacostia River; thence in a southwesterly direction along said Anacostia River to its intersection with Pennsylvania Avenue S.E.; thence along a line connecting to the intersection of Nicholson Street, S.E., and Anacostia Drive S.E.; thence south along said Nicholson Street S.E., to Minnesota Avenue, S.E; thence northerly along said Minnesota Avenue, S.E., to Twenty-Fifth Street, S.E.; thence south along said Twenty-Fifth Street, S.E., to Naylor Road, S.E.; thence in a southeasterly direction along said Naylor Road, S.E., to the State of Maryland-District of Columbia boundary line; thence in a northeasterly direction along said State of Maryland-District of Columbia boundary line to the eastern corner of the District of Columbia; thence in a northwesterly direction along the State of Maryland-District of Columbia boundary line to the point of beginning at its intersection with the center line of the Anacostia River.

WARD VIII

Starting at the intersection of the Commonwealth of Virginia-District of Columbia boundary line on the Commonwealth of Virginia shore of the Potomac River with the projection of the center line of the Anacostia River; thence in a northerly direction along the Anacostia River to Pennsylvania Avenue, S.E.; thence along a line connecting to the intersection of Nicholson Street, S.E., and Anacostia Drive, S.E.; thence south along said Nicholson Street, S.E., to Minnesota Avenue, S.E.; thence in a northerly direction along said Minnesota Avenue, S.E., to Twenty-Fifth Street, S.E.; thence south along said Twenty-Fifth Street, S.E., to Naylor Road, S.E.; thence in a southeasterly

direction along said Naylor Road, S.E., to the State of Maryland-District of Columbia boundary line; thence in a southwesterly direction along said State of Maryland-District of Columbia boundary line to the southern corner of the District of Columbia on the Commonwealth of Virginia shore of the Potomac River; thence along the Commonwealth of Virginia-District of Columbia boundary line to the point of beginning at its intersection with the projection of the center line of the Anacostia River.

(b) Except where otherwise indicated, the boundary line is the center of the street.

(Mar. 16, 1982, D.C. Law 4-87, § 4, 29 DCR 433; Aug. 17, 1991, D.C. Law 9-26, § 2, 38 DCR 4198; Mar. 11, 1992, D.C. Law 9-65, § 2, 39 DCR 8, Oct. 2, 2001, D.C. Law 14-27, § 2, 48 DCR 6380; Nov. 16, 2011, D.C. Law 19-38, § 2, 58 DCR 5823; Sept. 26, 2012, D.C. Law 19-171, § 147, 59 DCR 6190.)

Section references. — This section is referenced in § 7-1671.06, § 25-340.01, § 25-342, § 25-343, § 25-345, § 25-346, and § 25-374.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 added "Notwithstanding § 1-1011.01(h), and notwithstanding any other provision" in the introductory language of (a); substituted "to N Street, N.W.; thence east along said N Street, N.W., to Kirby Street, N.W.; thence south along said Kirby Street, N.W., to New York Avenue, N.W.; thence in an easterly direction along said New York Avenue, N.W." for "to New York Avenue, N.W.; thence in an easterly direction along said New York Avenue, N.W." in the boundary description for Ward V in (a); and substituted "thence along a line connecting to the intersection of Nicholson Street, S.E., and Anacostia Drive, S.E.; thence south along said Nicholson Street, S.E., to Minnesota Avenue, S.E.; thence in a northerly direction along said Minnesota Avenue, S.E." for "thence in an easterly direction along said Pennsylvania Avenue, S.E." in the boundary description for Ward VIII in (a).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter VII. Uniform Military and Overseas Voters Act.

§ 1-1061.01. Short title.

This subchapter may be cited as the "Uniform Military and Overseas Voters Act of 2012."

(June 5, 2012, D.C. Law 19-137, § 101, 59 DCR 2542.)

Legislative history of Law 19-137. — Law 19-137, the "Comprehensive Military and Overseas Voters Accommodation Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-356, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 27, 2012, it was assigned Act No. 19-334 and transmitted to both Houses of Congress for its review. D.C. Law 19-137 became effective on June 5, 2012.

§ 1-1061.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Board" means the Board of Elections and Ethics, established by § 1-1001.03.

(2) "Covered voter" means:

(A) A uniformed-service voter or an overseas voter who is registered to vote in the District;

(B) A uniformed-service voter whose voting residence is in the District and who otherwise satisfies the District's voter eligibility requirements;

(C) An overseas voter who, before leaving the United States, was last eligible to vote in the District and, except for a District residency requirement, otherwise satisfies the District's voter eligibility requirements;

(D) An overseas voter who, before leaving the United States, would have been last eligible to vote in the District had the voter then been of voting age and, except for a District residency requirement, otherwise satisfies the District's voter eligibility requirements; or

(E) An overseas voter who was born outside the United States, is not described in subparagraphs (C) or (D) of this paragraph, and, except for a District residency requirement, otherwise satisfies the District's voter eligibility requirements if:

(i) Before leaving the United States, the voter's last place of residence was with a parent or legal guardian who resided within the District; and

(ii) The voter has not previously registered to vote in any other state.

(3) "Dependent" means an individual recognized as a dependent of a uniformed service voter.

(4) "District" means the District of Columbia.

(5) "Federal postcard application" means the application prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 924; 42 U.S.C. § 1973ff(b)(2)).

(6) "Federal write-in absentee ballot" means the ballot described in section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 925; 42 U.S.C. § 1973ff-2).

(7) "Military-overseas ballot" means:

(A) A federal write-in absentee ballot;

(B) A ballot specifically prepared or distributed for use by a covered voter in accordance with this subchapter; or

(C) A ballot cast by a covered voter in accordance with this subchapter.

(8) "Overseas voter" means a United States citizen who is outside the United States.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(10) "Uniformed service" means:

(A) Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(B) The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) The National Guard and state militia.

(11) "Uniformed-service voter" means an individual who is qualified to vote and is:

(A) A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(C) A member on activated status of the National Guard or state militia; or

(D) A spouse or dependent of a member referred to in this paragraph.

(12) "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(June 5, 2012, D.C. Law 19-137, § 102, 59 DCR 2542.)

Section references. — This section is referenced in § 1-1061.05.

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.03. Elections covered.

The voting procedures in this subchapter apply to:

(1) A general, special, or primary election for President, Vice President, or District of Columbia Delegate to the United States House of Representatives;

(2) A general, special, or primary election for Mayor, Chairman of the Council, member of the Council, member of the State Board of Education, or Attorney General for the District of Columbia;

(3) An initiative, referendum, or recall measure; and

(4) A proposed Charter amendment.

(June 5, 2012, D.C. Law 19-137, § 103, 59 DCR 2542.)

Section references. — This section is referenced in § 1-1061.09 and § 1-1061.11.

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.04. Role of Board.

(a) The Board is responsible for implementing this subchapter and the District's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 924; 42 U.S.C. 1973ff et seq.).

(b) The Board shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.

(c) The Board shall establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information under this subchapter.

(d) The Board shall:

(1) Develop standardized absentee-voting materials, including privacy and transmission envelopes, authentication materials, and voting instructions to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the District; and

(2) To the extent reasonably possible, coordinate with other states to carry out this subsection.

(e) The Board shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this subchapter. The Board shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

(June 5, 2012, D.C. Law 19-137, § 104, 59 DCR 2542.)

Section references. — This section is referenced in § 1-1061.06 and § 1-1061.07.

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.05. Overseas voter's registration address.

In registering to vote, an overseas voter who is eligible to vote in the District must be assigned to the voting precinct of the address of the last place of residence of the voter in the District, or, in the case of a voter described by § 1-1061.02(2)(E), the address of the last place of residence in the District of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter must be assigned an address for voting purposes.

(June 5, 2012, D.C. Law 19-137, § 105, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.06. Methods of registering to vote.

(a) To apply to register to vote, a covered voter may use a federal postcard application or the application's electronic equivalent, or any other method approved under federal law.

(b) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote if the declaration is received by 30 days before the election.

(c) The Board shall ensure that the electronic transmission system described in § 1-1061.04(c) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to

the Board. The voter may use the electronic transmission system or any other method approved under federal law to register to vote.

(June 5, 2012, D.C. Law 19-137, § 106, 59 DCR 2542.)

Section references. — This section is referenced in § 1-1061.07.

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.07. Methods of applying for military-overseas ballot.

(a) A covered voter who is registered to vote in the District may apply for a military-overseas ballot using either the regular absentee ballot application on the form prescribed by the Board or the federal postcard application or the application's electronic equivalent.

(b) A covered voter who is not registered to vote in the District may use a federal postcard application or the application's electronic equivalent to apply to register to vote under § 1-1061.06 and for a military-overseas ballot.

(c) The Board shall ensure that the electronic transmission system described in § 1-1061.04(c) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the Board. The voter may use the electronic transmission system or any other method approved under federal law to apply for a military-overseas ballot.

(d) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the Board by the 7th day before the election.

(e) To receive the benefits of this subchapter, a covered voter must inform the Board that the voter is a covered voter. Methods of informing the Board that a voter is a covered voter include:

(1) The use of a federal postcard application or federal write-in absentee ballot;

(2) The use of an overseas address on an approved voter registration application or ballot application; and

(3) The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

(f) This subchapter does not preclude a covered voter from voting with a regular absentee ballot as authorized by the Board.

(June 5, 2012, D.C. Law 19-137, § 107, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.08. Timeliness and scope of application for military-overseas ballot.

An application for a military-overseas ballot is timely if received by the 7th day before the election. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election.

(June 5, 2012, D.C. Law 19-137, § 108, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.09. Transmission of unvoted ballots.

(a) For an election described in § 1-1061.03 for which the District has not received a waiver pursuant to section 102(g)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1986 (100 Stat. 925; 42 U.S.C. § 1973ff-1(g)(2)), no later than 45 days before the election or, if the 45th day before the election is a weekend or holiday, no later than the business day preceding the 45th day, the Board shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

(b) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission or electronic mail delivery, or, if offered by the District, Internet delivery. The Board shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(c) If a ballot application from a covered voter arrives after the District begins transmitting ballots and balloting materials to voters, the Board shall transmit the ballot and balloting materials to the voter no later than 2 business days after the application arrives.

(June 5, 2012, D.C. Law 19-137, § 109, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.10. Timely casting of ballot.

To be valid, a military-overseas ballot must be submitted by the voter on the date of the election by mailing or other authorized means of delivery no later than 12:01 a.m. at the place where the voter completes the ballot.

(June 5, 2012, D.C. Law 19-137, § 110, 59 DCR 2542.)

Section references. — This section is referenced in § 1-1061.12.

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.11. Federal write-in absentee ballot.

A covered voter may use a federal write-in absentee ballot to vote for all offices and ballot measures in an election described in § 1-1061.03.

(June 5, 2012, D.C. Law 19-137, § 111, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.12. Receipt of voted ballot.

(a) A valid military-overseas ballot cast in accordance with § 1-1061.10 must be counted if it is delivered within 10 days after the election to the address that the Board has specified.

(b) If, at the time of completing a military-overseas ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

(June 5, 2012, D.C. Law 19-137, § 112, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.13. Declaration.

A military-overseas ballot must include or be accompanied by a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of making a false statement under the laws of the District.

(June 5, 2012, D.C. Law 19-137, § 113, 59 DCR 2542.)

Section references. — This section is referenced in § 1-1061.17 and § 22-2405.

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.14. Confirmation of receipt of application and voted ballot.

The Board shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether:

(1) The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and

(2) The voter's military-overseas ballot has been received and the current status of the ballot.

(June 5, 2012, D.C. Law 19-137, § 114, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.15. Use of voter's electronic-mail address.

(a) The Board shall request an electronic-mail address from each covered voter who registers to vote after June 5, 2012. An electronic-mail address provided by a covered voter, or by any other District voter, may not be made available to the public or any individual or organization other than an authorized agent of the Board and is exempt from disclosure under subchapter II of Chapter 5 of Title 2. The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location. The request for an electronic-mail address must describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is prohibited.

(b) A covered voter who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year of the date of the application or another shorter period that the voter specifies. The Board shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable. A covered voter who is entitled to receive a military-overseas ballot for a primary election under this subsection is entitled to receive a military-overseas ballot for the general election.

(June 5, 2012, D.C. Law 19-137, § 115, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.16. Publication of election notice.

(a) At least 100 days before a regularly scheduled election and as soon as practicable before an election not regularly scheduled, the Board shall prepare an election notice, to be used in conjunction with a federal write-in absentee ballot. The election notice must contain a list of all of the ballot measures and federal and District offices that as of that date the Board expects to be on the ballot on the date of the election. The notice also must contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested.

(b) A covered voter may request a copy of an election notice. The Board shall send the election notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

(c) No later than 45 days before an election, the Board shall update the election notice described in subsection (a) of this section with the certified

candidates for each office and ballot measure questions and make the updated notice publicly available.

(d) The Board shall make the election notice prepared under subsection (a) of this section and updated versions of the election notice regularly available on the Board's Internet website.

(June 5, 2012, D.C. Law 19-137, § 116, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.17. Prohibition of nonsubstantive requirements.

(a) If a voter's mistake or omission in the completion of a document under this subchapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission shall not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified size or weight, shall not invalidate a document submitted under this subchapter. In a write-in ballot authorized by this subchapter or in a vote for a write-in candidate on a regular ballot, if the intention of the voter is discernable under the District's uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

(b) Notarization is not required for the execution of a document under this subchapter. An authentication, other than the declaration specified in § 1-1061.13 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for the execution of a document under this subchapter. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

(June 5, 2012, D.C. Law 19-137, § 117, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.18. Equitable relief.

The Superior Court of the District of Columbia may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with or to enforce this subchapter on application by:

(1) A covered voter alleging a grievance under this subchapter; or

(2) An election official in the District.

(June 5, 2012, D.C. Law 19-137, § 118, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.19. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(June 5, 2012, D.C. Law 19-137, § 119, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

§ 1-1061.20. Relation to Electronic Signatures in Global and National Commerce Act.

This subchapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000, (114 Stat. 464; 15 U.S.C. § 7001 et seq.) ("Act"), but does not modify, limit, or supersede section 101(c) of that Act (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in section 103(b) of that Act (15 U.S.C. § 7003(b)).

(June 5, 2012, D.C. Law 19-137, § 120, 59 DCR 2542.)

Legislative history of Law 19-137. — For history of Law 19-137, see notes under § 1-1061.01.

CHAPTER 11. ELECTION CAMPAIGNS; LOBBYING; CONFLICT OF INTEREST. [REPEALED].

Subchapter I. General Provisions

Part A

General Provisions

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1-1101.01. Definitions. [Repealed].

Part B

Financial Disclosures

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1-1102.05. Registration statement of candidate; depository information. [Repealed].
1-1102.06. Reports of receipts and expenditures by political committees and candidates. [Repealed].
1-1102.07. Reports by others than political committees and candidates. [Repealed].
1-1102.08. Formal requirements respecting reports and statements. [Repealed].
1-1102.09. Exemption for total expenses under $500. [Repealed].
1-1102.10. Identification of campaign literature. [Repealed].
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Part C

Director of Campaign Finance

1-1103.01. Office of Director of Campaign Finance established; enforcement of chapter. [Repealed].
1-1103.02. Powers of Director. [Repealed].
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ties; advisory opinions. [Repealed].

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1-1105.02. Persons required to register. [Repealed].
1-1105.03. Exceptions. [Repealed].
1-1105.04. Registration form. [Repealed].
1-1105.05. Activity reports. [Repealed].
1-1105.06. Prohibited activities. [Repealed].
1-1105.07. Penalties; prohibition from serving as lobbyist; citizen suits. [Repealed].

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1-1107.02. Use of surplus campaign funds. [Repealed].
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1-1131.01. Contribution limitations. [Repealed].
1-1131.02. Partnership contributions. [Repealed].
1-1131.03. Reporting requirements. [Repealed].

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1-1151.01. Definitions. [Repealed].
1-1151.02. Reports of exploratory committees. [Repealed].
1-1151.03. Fund balance requirements. [Repealed].
1-1151.04. Aggregate and individual contribution limits. [Repealed].
1-1151.05. Contribution prohibition. [Repealed].
1-1151.06. Time limit for the operation of an exploratory committee. [Repealed].

Subchapter I. General Provisions.

PART A.

GENERAL PROVISIONS.

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§ 1-1101.01. Definitions. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 447, Pub. L. 93-376, title I, § 102; Sept. 2, 1976, D.C. Law 1-79, title VIII, § 806, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; June 7, 1979, D.C. Law 3-1, § 3(a), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 3(a), (p), (r), (s), 29 DCR 458; Feb. 2, 2008, D.C. Law 17-104, § 8, 55 DCR 12218; Sept. 12, 2008, D.C. Law 17-231, § 6(a), 55 DCR 6758; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-122.

PART B.

FINANCIAL DISCLOSURES.

§ 1-1102.01. Political committees. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 449, Pub. L. 93-376, title II, § 201; Sept. 2, 1976, D.C. Law 1-79, title VIII, § 803, 23 DCR 2050; Mar. 16, 1982, D.C. Law 4-88, § 3(r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.02. Principal campaign committee. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 450, Pub. L. 93-376, title II, § 202; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 3(p), (r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.03. Designation of campaign depositories; petty cash fund. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 451, Pub. L. 93-376, title II, § 203; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.04. Statement of organization of political committees. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 451, Pub. L. 93-376, title II, § 204; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; June 7, 1979, D.C. Law 3-1, § 3(b), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 3(b), (r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.05. Registration statement of candidate; depository information. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 452, Pub. L. 93-376, title II, § 205; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(p), (r), 29 DCR 458; Apr. 12, 2000, D.C. Law 13-91, § 124(a), 47 DCR 520; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.06. Reports of receipts and expenditures by political committees and candidates. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 452, Pub. L. 93-376, title II, § 206; Aug. 18, 1978, D.C. Law 2-101, § 3, 25 DCR 257; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; June 7, 1979, D.C. Law 3-1, § 3(c), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 3(c), (q)-(s), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.07. Reports by others than political committees and candidates. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 453, Pub. L. 93-376, title II, § 207; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.08. Formal requirements respecting reports and statements. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 454, Pub. L. 93-376, title II, § 208; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.09. Exemption for total expenses under $500. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 454, Pub. L. 93-376, title II, § 209; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 3(q), (r), 29 DCR 458; April 5, 2000, D.C. Law 13-79, § 2(a), 46 DCR 10460; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.10. Identification of campaign literature. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 454, Pub. L. 93-376, title II, § 210; June 7, 1979, D.C. Law 3-1, § 3(d), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 3(s), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1102.11. Candidate's liability for financial obligation incurred by political committee. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 454, Pub. L. 93-376, title II, § 211; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

PART C.

DIRECTOR OF CAMPAIGN FINANCE.

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§ 1-1103.01. Office of Director of Campaign Finance established; enforcement of chapter. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 454, Pub. L. 93-376, title III, § 301; Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 12; Aug. 18, 1978, D.C. Law 2-101,§ 3, 25 DCR 257; Mar. 3, 1979, D.C. Law 2-139, § 3205(w), 25 DCR 5740; Mar. 16, 1982, D.C. Law 4-88, § 3(d), (p), (r), 29 DCR 458; Aug. 2, 1983, D.C. Law 5-17, § 6, 30 DCR 3196; April 5, 2000, D.C. Law 13-79, § 2(b), 46 DCR 10460; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Section references. — This section is referenced in § 1-636.02.

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1103.02. Powers of Director. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 455, Pub. L. 93-376, title III, § 302; June 28, 1977, D.C. Law 2-12, § 6(i), 24 DCR 1442; Aug. 18, 1978, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(e), (r), 29 DCR 458; April 5, 2000, D.C. Law 13-79, § 2(c), 46 DCR 10460; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1103.03. Duties of Director. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 456, Pub. L. 93-376, title III, § 303; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 3(p)-(r), 29 DCR 458; April 5, 2000, D.C. Law 13-79, § 2(d), 46 DCR 10460; Oct. 4, 2000, D.C. Law 13-163, § 2(a), 47 DCR 5812; Mar. 3, 2010, D.C. Law 18-111, § 1061, 57 DCR 181; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1103.04. Assistance of Comptroller General. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 456, Pub. L. 93-376, title III, § 304; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1103.05. District of Columbia Board of Elections and Ethics created; penalties; advisory opinions. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 458, Pub. L. 93-376, title III, § 306; Jan. 3, 1975, 88 Stat. 2178, Pub. L. 93-635, § 14(a); Apr. 23, 1977, D.C. Law 1-126, title III, § 302(a), 24 DCR 2372; Aug. 18, 1978, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(f), (r), 29 DCR 458; Oct. 4, 2000, D.C. Law 13-163, § 2(b), 47 DCR 5812; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

PART D.

CONSTITUENT SERVICES.

§ 1-1104.03. Constituent services. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 461, Pub. L. 93-376, title IV, § 402; Oct. 10, 1975, D.C. Law 1-21, § 7(b), 22 DCR 2069; Oct. 30, 1975, D.C. Law 1-27, § 3(c), 22 DCR 2471; Sept. 2, 1976, D.C. Law 1-79, title VII, § 702, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title I, § 102(d), 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 3(h), (r), 29 DCR 458; Jan. 28, 1988, D.C. Law 7-66, § 2, 34 DCR 7439; Apr. 12, 2000, D.C. Law 13-91, § 124(b), 47 DCR 520; Apr. 24, 2007, D.C. Law 16-305, § 7, 53 DCR 6198; Sept. 23, 2009, D.C. Law 18-52, § 2, 56 DCR 5491; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

PART E.

LOBBYING.

§ 1-1105.01. Definitions. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 462, Pub. L. 93-376, title V, § 501; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 302(b)-(i), title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 3, 1979, D.C. Law 2-139, § 3205(w), 25 DCR 5740; Apr. 23, 1980, D.C. Law 3-58, § 2(a), 27 DCR 963; Mar. 16, 1982, D.C. Law 4-88, § 3(i),

29 DCR 458; Apr. 12, 2000, D.C. Law 13-91, § 124(c), 47 DCR 520; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Section references. — This section is referenced in § 1-636.02.

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1105.02. Persons required to register. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 462, Pub. L. 93-376, title V, § 502; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(r), 29 DCR 458; Mar. 3, 2010, D.C. Law 18-111, § 1271, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 1162, 57 DCR 6242; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1105.03. Exceptions. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 462, Pub. L. 93-376, title V, § 503; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 302(j), title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(j), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1105.04. Registration form. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 463, Pub. L. 93-376, title V, § 504; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 302(k), title IV, § 402, 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 3(r), (s), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1105.05. Activity reports. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 463, Pub. L. 93-376, title V, § 505; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III,

§ 302 (l)-(p), title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(k), (q), (r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1105.06. Prohibited activities. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 463, Pub. L. 93-376, title V, § 506; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 302(q), title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Apr. 12, 2000, D.C. Law 13-91, § 124(d), 47 DCR 520; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1105.07. Penalties; prohibition from serving as lobbyist; citizen suits. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 464, Pub. L. 93-376, title V, § 507; Sept. 2, 1976, D.C. Law 1-79, title III, § 302, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title III, § 302(r), (s), title IV, § 402, 24 DCR 2372; Mar. 16, 1982, D.C. Law 4-88, § 3(r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

PART F.

CONFLICT OF INTEREST AND DISCLOSURE.

§ 1-1106.01. Conflict of interest. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 465, Pub. L. 93-376, title VI, § 601; Jan. 3, 1975, 88 Stat. 2178, Pub. L. 93-635, § 14(b); Sept. 2, 1976, D.C. Law 1-79, title II, § 202, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title I, § 102(b), title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 3, 1979, D.C. Law 2-139, § 3205 (w), 25 DCR 5740; Apr. 23, 1980, D.C. Law 3-58, § 2(b), 27 DCR 963; Mar. 16, 1982, D.C. Law 4-88, § 3(p), 29 DCR 458; Oct. 21, 2000, D.C. Law 13-184, § 2, 47 DCR 7066; Sept. 12, 2008, D.C. Law 17-231, § 6(b), 55 DCR 6758; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Section references. — This section is referenced in § 1-636.02.

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1106.02. Disclosure of financial interest. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 467, Pub. L. 93-376, title VI, § 602; Oct. 10, 1975, D.C. Law 1-21, § 7(c), 22 DCR 2069; Oct. 30, 1975, D.C. Law 1-27, § 3(d), 22 DCR 2471; Sept. 2, 1976, D.C. Law 1-79, title II, § 203, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title I, § 102(a), (c), title IV, § 402, 24 DCR 2372; Aug. 18, 1978, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 3, 1979, D.C. Law 2-139, § 3205(w), 25 DCR 5740; Apr. 23, 1980, D.C. Law 3-58,§ 2(c)-(f), 27 DCR 963; Aug. 1, 1981, D.C. Law 4-23, § 2, 28 DCR 2616; Mar. 16, 1982, D.C. Law 4-88, § 3(l), (p)-(s), 29 DCR 458; Sept. 26, 1984, D.C. Law 5-111, §§ 2(a), 3, 31 DCR 3952; Mar. 25, 1986, D.C. Law 6-97,§ 23(c), 33 DCR 703; Feb. 24, 1987, D.C. Law 6-192, § 21, 33 DCR 7836; May 10, 1989, D.C. Law 7-231, § 6, 36 DCR 492; Oct. 18, 1989, D.C. Law 8-41, § 2(a), 36 DCR 5758; June 8, 1990, D.C. Law 8-135, § 3, 37 DCR 2616; Mar. 17, 1993, D.C. Law 9-241, § 3, 40 DCR 629; Aug. 23, 1994, D.C. Law 10-153, § 16, 41 DCR 4652; May 16, 1995, D.C. Law 10-255, § 4, 41 DCR 5193; April 5, 2000, D.C. Law 13-79, § 2(e), 46 DCR 10460; Apr. 12, 2000, D.C. Law 13-91, § 124(e), 47 DCR 520; Apr. 27, 2001, D.C. Law 13-283, § 4, 48 DCR 1917; June 19, 2001, D.C. Law 13-313, § 6, 48 DCR 1873; Oct. 19, 2002, D.C. Law 14-213, § 4, 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 25, 51 DCR 881; Oct. 20, 2005, D.C. Law 16-33, § 4004(a), 52 DCR 7503; Apr. 7, 2006, D.C. Law 16-91, § 128, 52 DCR 10637; Sept. 12, 2008, D.C. Law 17-231, § 6(c), 55 DCR 6758; Apr. 8, 2011, D.C. Law 18-363, § 3(c), 58 DCR 963; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862; Sept. 26, 2012, D.C. Law 19-171, § 17, 59 DCR 6190.)

Section references. — This section is referenced in § 1-636.02.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 would have substituted "Real Property Tax Appeals Commission for the District of Columbia" for "Board of Real Property Assessments and Appeals" in the introductory language of (a).

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

PART F-i.

USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED ACTIVITIES.

§ 1-1106.51. Prohibition on the use of District government resources for campaign related activities. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 470, Pub. L. 93-376, title VI-A, § 651, as added Oct. 13, 2001, D.C. Law 14-36, § 2, 48 DCR 7111; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

PART G.

MISCELLANEOUS PROVISIONS.

§ 1-1107.01. Penalties; prosecutions. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 470, Pub. L. 93-376, title VII, § 701; Apr. 23, 1977, D.C. Law 1-126, title III, § 302(t), 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 3, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 3(m), (r), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1107.01a. Document under oath. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 470, Pub. L. 93-376, title VII, § 701a, as added Mar. 16, 1982, D.C. Law 4-88, § 3(n), 29 DCR 458; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1107.02. Use of surplus campaign funds. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 471, Pub. L. 93-376, title VII, § 703; Sept. 2, 1976, D.C. Law 1-79, title VIII, § 805, 23 DCR 2050; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; June 7, 1979, D.C. Law 3-1, § 3(f), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 3(o), (r), (s), 29 DCR 458; July 18, 2000, D.C. Law 13-138, § 2, 47 DCR 3424; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1107.03. Authority of Council. [Repealed].

Repealed.

(Aug. 14, 1974, 88 Stat. 472, Pub. L. 93-376, title VII, § 707; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

PART H.

LIMITATIONS ON HONORARIA AND ROYALTIES.

§ 1-1108.01. Limitations on honoraria and royalties. [Repealed].

Repealed.

(Aug. 14, 1974, Pub. L. 93-376, title VIII, § 801, as added Oct. 18, 1989, D.C. Law 8-41, § 2(b), 36 DCR 5748; Apr. 13, 2005, D.C. Law 15-348, § 201, 52 DCR 1991; April 27, 2012, D.C. Law 19-124, § 501(d), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

Subchapter II. Campaign Contribution Limitation.

§ 1-1131.01. Contribution limitations. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-204, § 3, 40 DCR 1; June 13, 1996, D.C. Law 11-144, § 3(a), 43 DCR 2174; June 19, 2001, D.C. Law 13-313, § 5, 48 DCR 1873; April 27, 2012, D.C. Law 19-124, § 501(e), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1131.02. Partnership contributions. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-204, § 4, 40 DCR 1; April 27, 2012, D.C. Law 19-124, § 501(e), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1131.03. Reporting requirements. [Repealed].

Repealed.

(Mar. 17, 1993, D.C. Law 9-204, § 5, 40 DCR 1; June 13, 1996, D.C. Law 11-144, § 3(b), 43 DCR 2174; April 27, 2012, D.C. Law 19-124, § 501(e), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

Subchapter III. Exploratory Committees.

§ 1-1151.01. Definitions. [Repealed].

Repealed.

(Feb. 2, 2008, D.C. Law 17-104, § 2, 54 DCR 12218; April 27, 2012, D.C. Law 19-124, § 501(f), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1151.02. Reports of exploratory committees. [Repealed].

Repealed.

(Feb. 2, 2008, D.C. Law 17-104, § 3, 54 DCR 12218; April 27, 2012, D.C. Law 19-124, § 501(f), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1151.03. Fund balance requirements. [Repealed].

Repealed.

(Feb. 2, 2008, D.C. Law 17-104, § 4, 54 DCR 12218; April 27, 2012, D.C. Law 19-124, § 501(f), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1151.04. Aggregate and individual contribution limits. [Repealed].

Repealed.

(Feb. 2, 2008, D.C. Law 17-104, § 5, 54 DCR 12218; April 27, 2012, D.C. Law 19-124, § 501(f), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1151.05. Contribution prohibition. [Repealed].

Repealed.

(Feb. 2, 2008, D.C. Law 17-104, § 6, 54 DCR 12218; April 27, 2012, D.C. Law 19-124, § 501(f), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

§ 1-1151.06. Time limit for the operation of an exploratory committee. [Repealed].

Repealed.

(Feb. 2, 2008, D.C. Law 17-104, § 7, 54 DCR 12218; April 27, 2012, D.C. Law 19-124, § 501(f), 59 DCR 1862.)

Legislative history of Law 19-124. — For history of Law 19-124, see notes under § 1-1101.

CHAPTER 11A. GOVERNMENT ETHICS AND ACCOUNTABILITY.

Subchapter I. Definitions

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1-1161.01. Definitions.

Subchapter II. Ethics Act

Part B

Director of Government Ethics

1-1162.19. Advisory opinions.

Sec.
1-1162.21. Penalties.

Part D

Financial Disclosures and Honoraria

1-1162.24. Public reporting.
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Part E

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1-1162.30. Activity reports.
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Subchapter III. Campaign Finance

Part A

Office of Campaign Finance

1-1163.02. Office of Director of Campaign Finance established; enforcement of subchapter.
1-1163.03. Powers of Director of Campaign Finance.
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1-1163.06. Advisory opinions.

Part B

Campaign Finance Committees

1-1163.07. Organization of committees.
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1-1163.13. Additional identifications and certifications.
1-1163.15. Identification of campaign literature.
1-1163.19. Aggregate and individual contribution limits of exploratory committees.
1-1163.22. Contributions to inaugural committees.
1-1163.25. Fund balance requirements for transition committees.
1-1163.25. Fund balance requirements for transition committees.
1-1163.26. Contributions to transition committees.

Part D

Contribution Limitations

1-1163.33. Contribution limitations.
1-1163.34. Partnership contributions.

Part E

Prohibited Activities and Enforcement

1-1163.35. Penalties.
1-1163.36. Prohibition on the use of District government resources for campaign-related activities.

Subchapter IV. Transition Provisions; Applicability

1-1164.01. Transition provisions; applicability.

Subchapter I. Definitions.

§ 1-1161.01. Definitions.

For the purposes of this chapter, the term:

(1) "Administrative decision" means any activity directly related to action by an executive agency to issue a Mayor's order, to cause to be undertaken a rulemaking proceeding (which does not include a formal public hearing) under Chapter 5 of Title 2, or to propose legislation or make nominations to the Council, the President, or Congress.

(2) "Administrative Procedure Act" means Chapter 5 of Title 2 [§ 2-501 et seq.].

(2A) [Not funded].

(3) "Affiliated organization" means:

(A) An organization or entity:

(i) In which the employee serves as officer, director, trustee, general partner, or employee;

(ii) In which the employee or member of the employee's household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value; or

(iii) That is a client of the employee or a member of the employee's household; or

(B) A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.

(3A) [Not funded].

(4) "Business" means any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted, whether for profit or not.

(4A) [Not funded].

(5) "Business with which he or she is associated" means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business that is a client of that person.

(6) "Candidate" means an individual who seeks nomination for election, or election, to office, whether or not the individual is nominated or elected. For the purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if the individual:

(A) Obtained or authorized any other person to obtain nominating petitions to qualify himself or herself for nomination for election, or election, to office;

(B) Received contributions or made expenditures, or has given consent to any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination for election, or election, to office; or

(C) Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate. An individual deemed to be a candidate for the purposes of this chapter shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law.

(7) "Code of Conduct" means those provisions contained in the following:

(A) The Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council;

(B) Sections 1-618.01 through 1-618.02;

(C) Chapter 7 of Title 2 [§ 2-701 et seq.)];

(D) Section 2-354.16;

(E) Chapter 18 of Title 6B of the District of Columbia Municipal Regulations;

(E-i) Chapter 11B of this title [§ 1-1171.01 et seq.];

(F) Parts C, D, and E of subchapter II, and part F of subchapter III of this chapter for the purpose of enforcement by the Elections Board of violations of § 1-1163.38 that are subject to the penalty provisions of § 1-1162.21.

(8) "Commodity" means commodity as defined in section 1a of the Com-

modity Exchange Act, approved September 21, 1922 (42 Stat. 998; 7 U.S.C. § 1a).

(9) "Compensation" means any money or an exchange of value received, regardless of its form, by a person acting as a lobbyist.

(10)(A) "Contribution" means

(i) A gift, subscription (including any assessment, fee, or membership dues), loan (except a loan made in the regular course of business by a business engaged in the business of making loans), advance, or deposit of money or anything of value, made for the purpose of financing, directly or indirectly:

(I) The election campaign of a candidate;

(II) Any operations of a political, exploratory, inaugural, transition, or legal defense committee; or

(III) The campaign to obtain signatures on any initiative, referendum, or recall measure, or to bring about the ratification or defeat of any initiative, referendum, or recall measure, or any operations of a political committee involved in such a campaign;

(ii) A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(iii) A transfer of funds between political committees or between an exploratory committee and a political committee; or

(iv) The payment, by any person other than a candidate or a political, exploratory, inaugural, transition, or legal defense committee, of compensation for the personal services of another person that are rendered to such candidate or committee without charge, or for less than reasonable value, for any such purpose or the furnishing of goods, advertising, or services to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such services.

(B) Notwithstanding subparagraph (A) of this paragraph, the term "contribution" shall not be construed to include:

(i) Services provided without compensation by a person (including an accountant or an attorney) volunteering a portion or all of the person's time on behalf of a candidate or a political, exploratory, inaugural, transition, or legal defense committee;

(ii) Personal services provided without compensation by a person volunteering a portion or all of the person's time to a candidate or a political, exploratory, inaugural, or legal defense committee;

(iii) Communications by an organization, other than a political party, solely to its members and their families on any subject;

(iv) Communications (including advertisements) to any person on any subject by any organization that is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office;

(v) Normal billing credit for a period not exceeding 30 days;

(vi) Services of an informational or polling nature, and related thereto, designed to seek the opinion(s) of voters concerning the possible candidacy of a qualified elector for public office, before such qualified elector's becoming a candidate;

(vii) The use of real or personal property, and the costs of invitations, food, and beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for related activities; provided, that expenses do not exceed $500 with respect to the candidate's election; and

(viii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; provided, that expenses do not exceed $500 with respect to the candidate's election.

(10A) [Not funded].

(10B) [Not funded].

(11) "Direct and predictable effect" means there is:

(A) A close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest;

(B) A real, as opposed to a speculative possibility, that the matter will affect the financial interest; and

(C) The effect is more than de minimis.

(12) "Director of Campaign Finance" means the Director of Campaign Finance of the Elections Board created by § 1-1163.02.

(13) "Director of Government Ethics" means the Director of Government Ethics created by § 1-1162.06.

(14) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

(15) "Election" means a primary, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office, or for the purpose of electing a candidate to office, or for the purpose of deciding an initiative, referendum, or recall measure, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(16) "Election Code" means subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.].

(17) "Elections Board" means the District of Columbia Board of Elections established under the Election Code, and redesignated by § 1-1163.05.

(18) "Employee" means, unless otherwise apparent from the context, a person who performs a function of the District government and who receives compensation for the performance of such services, or a member of a District government board or commission, whether or not for compensation.

(18A) [Not funded].

(19) "Ethics Board" means the District of Columbia Board of Ethics and Government Accountability established by § 1-1162.02.

(20) "Executive agency" means:

(A) A department, agency, or office in the executive branch of the District government under the direct administrative control of the Mayor;

(B) The State Board of Education or any of its constituent elements;

(C) The University of the District of Columbia or any of its constituent elements;

(D) The Elections Board; and

(E) Any District professional licensing and examining board under the administrative control of the executive branch.

(21)(A) "Expenditure" means:

(i) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly,:

(I) The election campaign of a candidate;

(II) Any operations of a political, exploratory, inaugural, transition, or legal defense committee; or

(III) The election campaign to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure, or any operations of a political committee involved in such a campaign;

(ii) A contract, promise, or agreement, whether or not legally enforceable, to make an expenditure;

(iii) A transfer of funds between political committees or between an exploratory committee and a political committee; and

(B) Notwithstanding subparagraph (A) of this paragraph, the term "expenditure" shall not be construed to include the incidental expenses (as defined by the Elections Board or Ethics Board) made by or on behalf of a person in the course of volunteering that person's time on behalf of a candidate or a political, exploratory, inaugural, transition, or legal defense committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity if the aggregate value of such activities by such person on behalf of any candidate does not exceed $500 with respect to any election.

(22) "Exploratory committee" means any person, or group of persons, organized for the purpose of examining or exploring the feasibility of becoming a candidate for an elective office in the District.

(23) "Gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received. The term "gift" shall not include:

(A) A political contribution otherwise reported as required by law;

(B) A commercially reasonable loan made in the ordinary course of business; or

(C) A gift received from a member of the person's immediate family.

(24) "Home Rule Act" means Chapter 2 of this title [§ 1-201.01 et seq.].

(25) "Household" means a public official or employee and any member of his or her immediate family with whom the public official or employee resides.

(26) "Immediate family" means the spouse or domestic partner of a public official or employee and any parent, grandparent, brother, sister, or child of the public official or employee, and the spouse or domestic partner of any such parent, grandparent, brother, sister, or child.

(27) "Inaugural committee" means a person, or group of persons, organized for the purpose of soliciting, accepting, and spending funds and coordinating activities to celebrate the election of a new Mayor.

(28) "Income" means gross income as defined in section 61 of the Internal Revenue Code (26 U.S.C. § 61).

(28A) [Not funded].

(28B) [Not funded].

(29) "Internal Revenue Code" means the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 3; 26 U.S.C. § 1 et seq.), and the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.), as amended from time to time.

(30) "Legal defense committee" means a person or group of persons, organized for the purpose of soliciting, accepting, and expending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings.

(31) "Legislative action" includes any activity conducted by an official in the legislative branch in the course of carrying out his or her duties as such an official, and relating to the introduction, passage, or defeat of any legislation in the Council.

(32)(A) "Lobbying" means communicating directly with any official in the legislative or executive branch of the District government with the purpose of influencing any legislative action or an administrative decision.

(B) The term "lobbying" shall not include:

(i) The appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney on behalf of any such person in a rulemaking (which includes a formal public hearing), rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor;

(ii) Information supplied in response to written inquiries by an executive agency, the Council, or any public official;

(iii) Inquiries concerning only the status of specific actions by an executive agency or the Council;

(iv) Testimony given before the Council or a committee of the Council, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record;

(v) A communication made through the instrumentality of a newspaper, television, or radio of general circulation, or a publication whose primary audience is the organization's membership; and

(vi) Communications by a bona fide political party.

(33)(A) "Lobbyist" means any person who engages in lobbying.

(B) Public officials communicating directly or soliciting others to communicate with other public officials shall not be deemed lobbyists for the purposes of this chapter; provided, that a public official does not receive compensation in addition to his or her salary for such communication or solicitation and makes such communication and solicitation in his or her official capacity.

(33A) [Not funded].

(34) "Merit Personnel Act" means Chapter 6 of this title [§ 1-601.01 et seq.].

(35) "Office" means the office of Mayor, Attorney General, Chairman of the Council, member of the Council, member of the State Board of Education, or an official of a political party.

(36) "Official in the executive branch" means:

(A) The Mayor;

(B) Any officer or employee in the Executive Service;

(C) Persons employed under the authority of §§ 1-609.01 through 1-609.03 (except § 1-609.03(a)(3)) paid at a rate of DS-13 or above in the General Schedule or equivalent compensation under the provisions of subchapter XI of Chapter 6 of this title [§ 1-611.01 et seq.] or designated in § 1-609.08 (except paragraphs (9) and (10) of that section; or

(D) Members of boards and commissions designated in § 1-523.01(e).

(37) "Official in the legislative branch" means any candidate for Chairman or member of the Council in a primary, special, or general election, the Chairman or Chairman-elect or any member or member-elect of the Council, officers, and employees of the Council appointed under the authority of §§ 1-609.01 through 1-609.03 or designated in § 1-609.08.

(38) "Official of a political party" means:

(A) National committeemen and national committeewomen;

(B) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(C) Alternates to the officials referred to in subparagraphs (A) and (B) of this paragraph, where permitted by political party rules; and

(D) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District.

(39) "Open Government Office" means the District of Columbia Open Government Office established by § 2-592.

(40) "Open Meetings Act" means subchapter IV of Chapter 5 of Title 2 [§ 2-571 et seq.].

(41) "Particular matter" is limited to meaning a deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.

(42) "Person" means an individual, partnership, committee, corporation, labor organization, and any other organization.

(43) "Person closely affiliated with the employee" means a spouse, dependent child, general partner, a member of the employee's household, or an affiliated organization.

(43A) [Not funded].

(44) "Political committee" means any proposer, individual, committee (including a principal campaign committee), club, association, organization, or other group of individuals organized for the purpose of, or engaged in promoting or opposing:

(A) A political party;

(B) The nomination or election of a person to office; or

(C) Any initiative, referendum, or recall.

(45) "Political party" means an association, committee, or organization that nominates a candidate for election to any office and qualifies under subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.] to have the names of its nominees appear on the election ballot as the candidate of that association, committee, or organization.

(46) "Prohibited source" means any person that:

(A) Has or is seeking to obtain contractual or other business or financial relations with the District government;

(B) Conducts operations or activities that are subject to regulation by the District government; or

(C) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

(47) "Public official" means:

(A) A candidate for nomination for election, or election, to public office;

(B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title;

(C) The Attorney General;

(D) A Representative or Senator elected pursuant to § 1-123;

(E) An Advisory Neighborhood Commissioner;

(F) A member of the State Board of Education;

(G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(G-1) Members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01;

(H) A member of a board or commission listed in § 1-523.01(e); and

(I) A District of Columbia Excepted Service employee paid at a rate of Excepted Service 9 or above, or its equivalent, who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and any additional employees designated by rule by the Ethics Board who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest.

(48) "Registrant" means a person who is required to register as a lobbyist under the provisions of § 1-1162.27.

(49) "Security" means a security as defined in section 2(1) of the Securities Act of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77b(1)).

(50) "Tax" means the taxes imposed under Chapter 1 of the Internal Revenue Code, under Chapter 18 of Title 47, and under the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; D.C. Official Codes § 34-2101 passim); and any other provision of law relating to the taxation of property within the District.

(51) "Transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(52) "Transition committee" means any person, or group of persons, organized for the purpose of soliciting, accepting, or expending funds for office and personnel transition on behalf of the Chairman of the Council or the Mayor.

(Apr. 27, 2012, D.C. Law 19-124, § 101, 59 DCR 1862; Apr. 27, 2013, D.C. Law 19-286, § 3(a), 60 DCR 2319; Feb. 22, 2014, D.C. Law 20-79, § 2(a), 61 DCR 153; Feb. 22, 2014, D.C. Law 20-80, § 2(g), 61 DCR 169.)

Section references. — This section is referenced in § 1-1001.02, § 1-1001.05, and § 1-1171.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-286 added (47)(G-1).

The 2014 amendment by D.C. Law 20-80 added D.C. Law 18-335, § 7a, which added (7)(E-i).

Temporary legislation. — For temporary (225 days) addition of D.C. Law 18-335, § 7a, see § 2(g) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) addition of D.C. Law 18-335, § 7a, amending subdivision (7) of this section, see § 2(g) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) addition of D.C. Law 18-335, § 7a, amending subdivision (7) of this section, see § 2(g) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 19-286. — Law 19-286, the "Washington Metropolitan Area Transit Authority Board of Directors Act of 2012," was introduced in Council and assigned Bill No. 19-744. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 29, 2013, it was assigned Act No. 19-653 and transmitted to Congress for its review. D.C. Law 19-286 became effective on April 27, 2013.

Legislative history of Law 20-79. — Law 20-79, the "Campaign Finance Reform and Transparency Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-76. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-249 and transmitted to Congress for its review. D.C. Law 20-79 became effective on February 22, 2014.

Legislative history of Law 20-80. — Law 20-80, the "Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-80. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-250 and transmitted to Congress for its review. D.C. Law 20-80 became effective on February 22, 2014.

Editor's notes. — Section 2(a)(1), (2), (4), (7), (8), (12), (14) and (15) of D.C. Law 20-79 would have added definitions for "affiliated entity", "bundled" or "bundling", "business contributor", "control" or "controlling interest", "coordinate" or "coordination", "entity", "independent expenditure", "independent expenditure committee", "material involvement", and "political action committee".

Section 2(a)(3) of D.C. Law 20-79 would have amended (4) by striking the word "'Business'" and inserting the phrase "'Business or business entity'" in its place.

Section 2(a)(5) of D.C. Law 20-79 would have amended (6) as follows:

(A) The lead-in text is amended by inserting the sentence "An individual deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law" after the first sentence of the paragraph.

(B) Subparagraph (A) is amended by striking the phrase "himself or herself" and inserting the phrase "the individual" in its place.

(C) Subparagraph (B) is amended by striking the phrase "his or her" and inserting the phrase "the individual's" in its place.

(D) Subparagraph (C) is amended by striking the sentence "An individual deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law."

Section 2(a)(6) of D.C. Law 20-79 would have amended (10) to read as follows:

"(10)(A) 'Contribution' means:

"(i) A gift, subscription (including any assessment, fee, or membership dues), loan (except a loan made in the regular course of business by a business engaged in the business of making loans), advance, or deposit of money or anything of value (including contributions in cash or in kind), made for the purpose of financing, directly or indirectly:

"(I) The nomination or election of a candidate;

"(II) Any operations of a political committee or political action committee; or

"(III) The campaign to obtain signatures on any initiative, referendum, or recall measure, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

"(ii) A transfer of funds between:

"(I) Political committees;

"(II) Political action committees;

"(III) A political committee and a political action committee; or

"(IV) Candidates.

"(iii) The payment, by any person other than a candidate, a political committee, political action committee, or independent expenditure committee of compensation for the personal services of another person that are rendered to such candidate or committee without charge or for less than reasonable value, or the furnishing of goods, advertising, or services to a candidate's campaign without charge or at a rate which is less than the rate normally charged for such services.

"(B) Notwithstanding subparagraph (A) of this paragraph, the term 'contribution' does not include:

"(i) Personal or other services provided without compensation by a person (including an accountant or an attorney) volunteering a portion or all of the person's time to or on behalf of a candidate, political committee, political action committee, or independent expenditure committee;

"(ii) Communications by an organization other than a political party solely to its members and their families on any subject;

"(iii) Communications (including advertisements) to any person on any subject by any organization that is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office;

"(iv) Normal billing credit for a period not exceeding 30 days;

"(v) Services of an informational or polling nature, designed to seek the opinion of voters concerning the possible candidacy of a qualified elector for public office, before such qualified elector becomes a candidate;

"(vi) The use of real or personal property, and the costs of invitations, food, and beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for related activities; provided, that expenses do not exceed $500 with respect to the candidate's election; and

"(vii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; provided, that expenses do not exceed $500 with respect to the candidate's election."

Section 2(a)(9) of D.C. Law 20-79 would have amended (21) to read as follows:

"(21)(A) 'Expenditure' means:

"(i) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of financing, directly or indirectly:

"(I) The nomination or election of a candidate;

"(II) Any operations of a political committee, political action committee, or independent expenditure committee; or

"(III) The campaign to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

"(ii) A transfer of funds between:

"(I) Political committees;

"(II) Political action committees;

"(III) A political committee and a political action committee; or

"(IV) Candidates.

"(B) Notwithstanding subparagraph (A) of this paragraph, the term "expenditure" does not include incidental expenses (as defined by the Elections Board or Ethics Board) made by or on behalf of a person in the course of volunteering that person's time on behalf of a candidate, political committee, or political action committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity; provided, that the aggregate value of such activities by such person on behalf of any candidate does not exceed $500 with respect to any election."

Section 2(a)(10) of D.C. Law 20-79 would have amended (22) by striking the phrase "of becoming" and inserting the phrase "of an individual's becoming" in its place.

Section 2(a)(11) of D.C. Law 20-79 would have amended (23)(A) by striking the phrase "A political contribution" and inserting the phrase "A contribution" in its place.

Section 2(a)(13) of D.C. Law 20-79 would have amended (30) as follows:

(A) Strike the comma following the word "persons".

(B) Strike the word "expending" and insert the word "spending" in its place.

Section 2(a)(16) of D.C. Law 20-79 would have amended (44) to read as follows:

"(44) 'Political committee' means any committee (including any principal campaign, inaugural, exploratory, transition, or legal defense committee), club, association, organization, or other group of individuals that is:

"(A) Organized for the principal purpose of promoting or opposing:

"(i) The nomination or election of a person to public office;

"(ii) A political party;

"(iii) Any initiative, referendum, or recall; or

"(B) An inaugural, transition, or legal defense committee; and

"(C) Controlled by or coordinated with any candidate or public official, or controlled by or coordinated with anyone acting on behalf of a candidate or public official."

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

Subchapter II. Ethics Act.

PART A.

GOVERNMENT ETHICS AND ACCOUNTABILITY.

§ 1-1162.02. Establishment of the District of Columbia Board of Ethics and Government Accountability.

Section references. — This section is referenced in § 1-1161.01, § 1-1162.21, and § 1-1171.01.

Emergency legislation. — For temporary (90 day) addition of section, see § 1073 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1073 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Editor's notes. — Section 1073 of Law 19-168 provided that any matter arising after January 29, 2012, from a violation of Title I, Subtitle C of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Amendment Act of 2012, effective January 29, 2012 (D.C. Act 19-298; 59 DCR 683), or Title II, Subtitle C of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2012, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 et seq.), may be enforced by the Elections Board until October 1, 2012, after which pending matters shall be transferred to the Ethics Board for enforcement.

PART B.

DIRECTOR OF GOVERNMENT ETHICS.

§ 1-1162.19. Advisory opinions.

(a) Upon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.

(a-1)(1) The Director of Government Ethics may issue, on his or her own initiative, an advisory opinion on any general question of law he or she considers of sufficient public importance concerning a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.

(2) Before an advisory opinion is issued under this subsection, the Director of Government Ethics shall publish a notice of the proposed advisory

opinion in the District of Columbia Register and provide a public-comment period of at least 30 days, during which a person may submit information or comment on the proposed advisory opinion. An advisory opinion that does not meet the procedural requirements of this paragraph shall be void ab initio.

(b) An advisory opinion shall be published in the District of Columbia Register within 30 days of its issuance; provided, that the identity of a person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without the person's prior consent in writing.

(c)(1) If an advisory opinion is issued by the Director of Government Ethics to a request for an advisory opinion, the requesting employee or public official may appeal the opinion for consideration by the Ethics Board.

(2) If the Director of Government Ethics issues an advisory opinion on his or her own initiative, an employee or public official aggrieved by the opinion may appeal the opinion for consideration by the Ethics Board.

(d) There shall be no enforcement of a violation of the Code of Conduct taken against an employee or public official who relied in good faith upon an advisory opinion requested by that employee or public official; provided, that the employee or public official, in seeking the advisory opinion, made full and accurate disclosure of all relevant circumstances and information.

(Apr. 27, 2012, D.C. Law 19-124, § 219, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-75, § 2(a), 61 DCR 36.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-75 deleted "the Ethics Board or" preceding "the Director of Government Ethics" in (a); added (a-1); and rewrote (c), which formerly read, "If issued by the Director of Government Ethics, an advisory opinion may be appealed for consideration by the Ethics Board."

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(a) of the Board of Ethics and Government Accountability Temporary Amendment Act of 2013 (D.C. Law 20-3, May 18, 2013, 60 DCR 4622, 20 DCSTAT 1266).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(a) of the Board of Ethics and Government Accountability Emergency Amendment Act of 2013 (D.C. Act 20-24, March 7, 2013, 60 DCR 3984, 20 DCSTAT 483).

For temporary (90 days) amendment of this section, see § 2(a) of the Board of Ethics and Government Accountability Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-245, December 27, 2013, 61 DCR 135).

Legislative history of Law 20-75. — Law 20-75, the "Board of Ethics and Government Accountability Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-116. The Bill was adopted on first and second readings on November 5, 2013 and December 3, 2013, respectively. Signed by the Mayor on December 23, 2013, it was assigned Act No. 20-241 and transmitted to Congress for its review. D.C. Law 20-75 became effective on February 22, 2014.

§ 1-1162.21. Penalties.

(a)(1) In accordance with paragraph (2) of this subsection and except as provided in subsection (b) of this section, the Ethics Board may assess a civil penalty for a violation of the Code of Conduct of not more than $5,000 per violation, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income for each violation. Each occurrence of a violation of this subchapter and each day of noncompliance with a requirement of this subchapter or an order of the Ethics Board shall constitute a separate offense.

(2) A civil penalty shall be assessed by the Ethics Board by order only

after the person charged with a violation has been given an opportunity for a hearing, and after the Ethics Board has determined, by a decision incorporating its findings of facts, that a violation occurred.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, the Ethics Board may issue a schedule of fines for violations of this subchapter, which may be imposed ministerially by the Director of Government Ethics. A civil penalty imposed under the authority of this paragraph may be appealed to the Ethics Board in accordance with the provisions of paragraph (2) of this subsection. The aggregate set of penalties imposed against each person under the authority of this paragraph may not exceed $5,000.

(4)(A) In addition to any civil penalty imposed under this subchapter, a violation of the Code of Conduct may result in the following:

(i) Remedial action in accordance with the Merit Personnel Act;

(ii) A public censure imposed by the Ethics Board;

(iii) A non-public, informal admonition imposed by the Director of Government Ethics for low-level violations of the Code of Conduct such as:

(I) A one-time, minor misuse of government property;

(II) A non-habitual time and leave issue that does not have a specific harmful impact;

(III) A non-uniform application of a regulation or policy by a supervisor, where it is not a regular occurrence and was not for an unlawful purpose;

(IV) A relatively minor action based, at least in part, on advice or guidance sought in good faith from another, such as a supervisor, and given in good faith, though erroneous; or

(V) A minor, incidental ethics violation for which the person made amends and rectified the situation;

(iv) A finding of a violation and a period of probation after which a respondent may seek expungement of the violation upon successful completion of any probationary terms imposed by the Director of Government Ethics or the Ethics Board; or

(v) Any negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by the respondent, subject to approval by the Ethics Board.

(B) A non-public, informal admonition imposed under subparagraph (A)(iii) of this paragraph may be appealed to the Ethics Board.

(5)(A) If the person against whom a civil penalty is assessed fails to pay the penalty, the Ethics Board may file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, if any, and the Ethics Board shall certify and file with the court the record upon which the order sought to be enforced was issued.

(B) The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Ethics Board or it may remand the

proceedings to the Ethics Board for such further action as it may direct. The court may determine de novo all issues of law, but the Ethics Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(b)(1) Any person who commits a violation of the Code of Conduct that substantially threatens the public trust shall be fined not more than $25,000, or shall be imprisoned for not longer than one year, but not both.

(2)(A) Prosecutions of violations of this subsection shall be brought by the Attorney General of the District of Columbia; provided, that if the conduct also violates criminal provisions that could be prosecuted by the United States Attorney of the District of Columbia, the United States Attorney of the District of Columbia consents to the prosecution by the Attorney General of the District of Columbia.

(B) Notwithstanding subparagraph (A) of this paragraph, no prosecution for a violation of paragraph (1) of this subsection shall be made until the Ethics Board has conducted its study pursuant to § 1-1162.02(b) and the Council has, by law, specified violations of the Code of Conduct that substantially threaten the public trust.

(c) The provisions of this subchapter shall in no manner limit the authority of the United States Attorney for the District of Columbia.

(d) All actions of the Ethics Board, the Attorney General of the District of Columbia, or of the United States Attorney for the District of Columbia to enforce the provisions of this subchapter must be initiated within 5 years of the discovery of the alleged violation.

(e) Notwithstanding any other provision in this subchapter, all equitable remedies at law shall be available for violations of the Code of Conduct, which may be in addition to any civil penalty prescribed in this subchapter.

(f) The penalties set forth in this section shall not apply to part E of this subchapter.

(Apr. 27, 2012, D.C. Law 19-124, § 221, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-75, § 2(b), 61 DCR 36.)

Section references. — This section is referenced in § 1-1161.01, § 1-1162.10, § 1-1162.15, § 1-1162.22, § 1-1162.32, and § 1-1163.38.

Effect of amendments. — The 2014 amendment by D.C. Law 20-75 rewrote (a)(4), which previously read, "In addition to any civil penalty imposed under this subchapter, a violation of the Code of Conduct may result in remedial action in accordance with Chapter 6 of this title."

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(b) of the Board of Ethics and Government Accountability Temporary Amendment Act of 2013 (D.C. Law 20-3, May 18, 2013, 60 DCR 4622, 20 DCSTAT 1266).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(b) of the Board of Ethics and Government Accountability Emergency Amendment Act of 2013 (D.C. Act 20-24, March 7, 2013, 60 DCR 3984, 20 DCSTAT 483).

For temporary (90 days) amendment of this section, see § 2(b) of the Board of Ethics and Government Accountability Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-245, December 27, 2013, 61 DCR 135, 20 DCSTAT 2639).

Legislative history of Law 20-75. — Law 20-75, the "Board of Ethics and Government Accountability Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-116. The Bill was adopted on first and second readings on November 5, 2013 and December 3, 2013, respectively. Signed by the Mayor on December 23, 2013, it was assigned Act No. 20-241 and transmitted to Congress for its review. D.C. Law 20-75 became effective on February 22, 2014.

PART D.

FINANCIAL DISCLOSURES AND HONORARIA.

§ 1-1162.24. Public reporting.

(a)(1) Public officials, except Advisory Neighborhood Commissioners and members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01, shall file annually with the Ethics Board a public report containing a full and complete statement of:

(A) The name of each business entity, including sole proprietorships, partnerships, trusts, nonprofit organizations, and corporations, whether or not transacting any business with the District of Columbia government, in or from which the public official or his or her spouse, domestic partner, or dependent children:

(i) Has a beneficial interest, including, whether held in such person's own name, in trust, or in the name of a nominee, securities, stocks, stock options, bonds, or trusts, exceeding in the aggregate $1,000, or that produced income of $200;

(ii) Receives honoraria and income earned for services rendered in excess of $200 during a calendar year, as well as the identity of any client for whom the official performed a service in connection with the official's outside income if the client has a contract with the government of the District of Columbia or the client stands to gain a direct financial benefit from legislation that was pending before the Council during the calendar year. The report required by this part shall include a narrative description of the nature of the service performed in connection with the official's outside income;

(iii) Serves as an officer, director, partner, employee, consultant, contractor, volunteer, or in any other formal capacity or affiliation; or

(iv) Has an agreement or arrangement for a leave of absence, future employment, including date of agreement, or continuation of payment by a former employer;

(B) Any outstanding individual liability in excess of $1,000 for borrowing by the public official or his or her spouse, domestic partner, or dependent children from anyone other than a federal or state insured or regulated financial institution, including any revolving credit and installment accounts from any business enterprise regularly engaged in the business of providing revolving credit or installment accounts, or a member of the person's immediate family;

(C) All real property located in the District (and its actual location) in which the public official or his or her spouse, domestic partner, or dependent children, has an interest with a fair market value in excess of $1,000, or that produced income of $200; provided, that this provision shall not apply to personal residences occupied by the public official, his or her spouse, or domestic partner;

(D) All professional or occupational licenses issued by the District of Columbia government held by a public official or his or her spouse, domestic partner, or dependent children;

(E) All gifts received year by a public official from a prohibited source in an aggregate value of $100 in a calendar;

(F) An affidavit stating that the public official has not caused title to property to be placed in another person or entity for the purposes of avoiding the disclosure requirements of this subsection; and

(G) A certification that the public official has:

(i) Filed and paid his or her income and property taxes;

(ii) Diligently safeguarded the assets of the taxpayers and the District;

(iii) Reported known illegal activity, including attempted bribes, to the appropriate authorities;

(iv) Not been offered or accepted any bribes;

(v) Not directly or indirectly received government funds through illegal or improper means;

(vi) Not raised or received funds in violation of federal or District law; and

(vii) Not received or been given anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that the public official's official actions or judgment or vote would be influenced.

(2) The Ethics Board may, on a case-by-case basis, exempt a public official from this requirement or some portion of this requirement for good cause shown.

(b) Except as otherwise provided by this section, all papers filed under this section shall be kept by the Ethics Board in the custody of the Director of Government Ethics for no less than 6 years. The Ethics Board shall publicly disclose before the 2nd day of June each year the names of the candidates, officers, and employees who have filed a report. The Director of Government Ethics shall dispose of papers filed pursuant to this section in accordance with Chapter 17 of Title 2.

(c) Reports required by this section shall be filed before May 15th of each year. If a public official ceases before May 15th to hold the office or position, the occupancy of which imposes upon him or her the reporting requirements set forth in subsection (a) of this section, the public official shall file the report within 3 months after leaving the office or position. The Ethics Board shall publish, in the District of Columbia Register, before June 15th each year, the name of each public official who has:

(1) Filed a report under this section;

(2) Sought and received an extension of the deadline filing requirement and the reason for the extension; and

(3) Not filed a report and the reason for not filing, if known.

(d) Reports required by this section shall be in a form prescribed by the Ethics Board. The Ethics Board may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of rental property of any individual.

(e) All reports filed under this section shall be maintained by the Ethics Board as public records.

(f) For the purposes of a report required by this section, a person shall be considered to have been a public official if he or she has served as a public official for more than 30 days during any calendar year in a position for which reports are required under this section.

(g) The Ethics Board shall provide for the annual auditing of all reports filed pursuant to this section.

(h) The Mayor shall develop a list of each business entity transacting any business with the District government, or providing a service to the District for consideration, to include the business name, address, principals, and brief summary of the business transacted within the immediately preceding 6 months. The list shall be available online and published on January 1st and July 1st annually.

(Apr. 27, 2012, D.C. Law 19-124, § 224, 59 DCR 1862; Sept. 20, 2012, D.C. Law 19-168, § 1072(a), 59 DCR 8025; Apr. 27, 2013, D.C. Law 19-286, § 3(b), 60 DCR 2319.)

Section references. — This section is referenced in § 1-123, § 1-618.01, § 1-1162.25, § 1-1171.02, and § 38-2973.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168, in the introductory language of (c), substituted "May 15th" for "October 2nd" in the first sentence, substituted "May 15th" for "October 1st" in the second sentence, and substituted "June 15th" for "November 2nd" in the third sentence.

The 2013 amendment by D.C. Law 19-286 added "and members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01" in (a)(1).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1072(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1074 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1072(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) addition of section, see § 1074 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-286. — See note to § 1-1161.01.

Editor's notes. — Section 1074 of D.C. Law 19-168 provided that § 1072(a) and (b) of the act [which amended §§ 1-1162.24(c) and 1-1162.25] shall apply as of January 1, 2013.

§ 1-1162.25. Confidential disclosure of financial interest.

(a) Any employee, other than a public official, who advises, makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, policy-making, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest, as determined by the appropriate agency head, shall file, before May 15th of each year, with that agency head a report containing a full and complete statement of the information required by § 1-1162.24. Advisory

Neighborhood Commissioners and members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01 shall file the report required by this section.

(b) Upon review of the confidential report, any violation of the Code of Conduct found by the agency head shall be forwarded immediately to the Ethics Board for review.

(c) On or before April 15th of each year, each agency head shall designate the persons in the agency required to submit a confidential report by name, position, and grade level, and shall supply this list to the Ethics Board and the D.C. Ethics Counselor on or before May 1st of each year.

(Apr. 27, 2012, D.C. Law 19-124, § 225, 59 DCR 1862; Sept. 20, 2012, D.C. Law 19-168, § 1072(b), 59 DCR 8025; Apr. 27, 2013, D.C. Law 19-286, § 3(c), 60 DCR 2319.)

Section references. — This section is referenced in § 1-618.01.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 substituted "May 15th" for "October 2nd" in the first sentence of (a); and in (c), substituted "April 15th" for "September 1st" and "May 1st" for "September 15th."

The 2013 amendment by D.C. Law 19-286 added "and members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01" in (a).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Temporary Amendment Act of 2013 (D.C. Law 20-57, December 13, 2013, 60 DCR 15168).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1072(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1074 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1072(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) addition of section, see § 1074 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 days) amendment of this section, see § 2 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Amendment Act of 2013 (D.C. Act 20-181, October 4, 2013, 60 DCR 14953).

Legislative history of Law 19-168. — See note to § 1-1162.24.

Legislative history of Law 19-286. — See note to § 1-1161.01.

Editor's notes. — Section 1074 of D.C. Law 19-168 provided that § 1072(a) and (b) of the act [which amended §§ 1-1162.24(c) and 1-1162.25] shall apply as of January 1, 2013.

§ 1-1162.26. Limitations on honoraria and royalties.

(a) Except as provided in subsections (b) and (c) of this section, neither the Mayor, the Attorney General, the Chairman of the Council, nor any member of the Council or of the State Board of Education, nor any member of his or her immediate family, shall receive honoraria exceeding $10,000 in the aggregate during any calendar year. For the purposes of this subsection, the term "honorarium" means payment of money or anything of value for an appearance, speech, or article; provided, that a reimbursement for or payment of actual and necessary travel expenses incurred shall not be considered honoraria. For the purposes of computing the $10,000 limit on honoraria established under this subsection, an honorarium shall be considered received in the year in which the right to receive the honorarium accrues.

(b) Except as provided in subsection (c) of this section, neither the Chairman of the Council, the Mayor, the Attorney General, nor any member of the Chairman of the Council's, the Mayor's, or the Attorney General's immediate family shall accept royalties for works of the Chairman of the Council, the Mayor, or the Attorney General that exceed $10,000 in the aggregate during any calendar year. For the purposes of computing the limit on royalties established under this subsection, a royalty shall be considered received during the calendar year in which the right to receive the royalty accrues.

(c) For the purposes of this section, any royalty or part of a royalty, or any honorarium or part of an honorarium paid to a charitable organization by or on behalf of a public official shall not be calculated as part of an aggregate total.

(Apr. 27, 2012, D.C. Law 19-124, § 226, 59 DCR 1862; Dec. 13, 2013, D.C. Law 20-60, § 302(a), 60 DCR 15487.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-60 rewrote (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(a) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — Law 20-60, the "Elected Attorney General Implementation and Legal Service Establishment Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-134. The Bill was adopted on first and second readings on July 10, 2013 and Oct. 1, 2013, respectively. Returned without the Mayor's signature on Oct. 22, 2013, it was assigned Act No. 20-207 and transmitted to Congress for its review. D.C. Law 20-60 became effective on December 13, 2013.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 302 of the act shall apply as of December 13, 2013.

PART E.

LOBBYISTS.

§ 1-1162.30. Activity reports.

(a) Each registrant shall file with the Director of Government Ethics between the 1st and 10th day of July and January of each year a report signed under oath concerning the registrant's lobbying activities during the previous 6-month period. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. A registrant shall file a separate activity report for each person from whom he or she receives compensation. The reports shall be public documents and shall be on a form prescribed by the Director of Government Ethics and shall include the following:

(1) A complete and current statement of the information required to be supplied pursuant to § 1-1162.29;

(2)(A) Total expenditures on lobbying broken down into the following categories:

(i) Office expenses;

(ii) Advertising and publications;

(iii) Compensation to others;

(iv) Personal sustenance, lodging, and travel, if compensated;

(v) Other expenses;

(B) Each expenditure of $50 or more shall also be itemized by the date, name, and address of the recipient, and the amount and purpose of the expenditure;

(3) Each political expenditure, loan, gift, honorarium, or contribution of $50 or more made by the registrant or anyone acting on behalf of the registrant to benefit an official in the legislative or executive branch, a member of his or her staff or household, or a campaign or testimonial committee established for the benefit of the official, be itemized by date, beneficiary, amount, and circumstances of the transaction; including the aggregate of all expenditures that are less than $50;

(4) Each official in the executive or legislative branch and any member of the official's staff, including personal and committee staff, who has a business relationship or a professional services relationship with the registrant shall be identified by name and the nature of the business relationship with the registrant;

(5) Each official in the executive or legislative branch with whom the registrant has had written or oral communications during the reporting periods related to lobbying activities conducted by the registrant shall also be included in the report, identifying the official with whom the communication was made;

(6) Each person whom the registrant has given compensation to lobby on his or her behalf shall also be listed in the report; and

(7) [Not funded].

(b) Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this section for 5 years from the date of filing of the report containing these items. These materials shall be made available for inspection upon requests by the Director of Government Ethics after reasonable notice.

(c) Each registrant who does not file a report required by this section for a given period is presumed not to be receiving or expending funds that are required to be reported under this part.

(Apr. 27, 2012, D.C. Law 19-124, § 230, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(b), 61 DCR 153.)

Section references. — This section is referenced in § 1-1162.28.

Legislative history of Law 20-79. — Law 20-79, the "Campaign Finance Reform and Transparency Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-76. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-249 and transmitted to Congress for its review. D.C. Law 20-79 became effective on February 22, 2014.

Editor's notes. — Section 2(b) of D.C. Law 20-79 would have amended (a)(3) by striking the phrase "campaign or testimonial committee" and inserting the phrase "political committee or political action committee" in its place; would have amended (a)(5) by striking the phrase "and"; would have amended (a)(6) by striking the phrase "shall also be listed in the report" and inserting the phrase "and" in its place; and would have added (a)(7) to read as follows:

"(7) All bundled contributions in accordance with rules promulgated by the Ethics Board."

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget

and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1162.31. Prohibited activities.

(a) No registrant or anyone acting on behalf of a registrant shall offer, give, or cause to be given a gift or service to an official in the legislative or executive branch or a member of his or her staff that exceeds $100 in value in the aggregate in any calendar year. This section shall not be construed to restrict in any manner contributions authorized in §§ 1-1163.33, 1-1163.34, and 1-1163.38.

(b) No official in the legislative or executive branch or a member of his or her staff shall solicit or accept anything of value in violation of subsection (a) of this section.

(c) No person shall knowingly or willfully make or cause to be made any false or misleading statement or misrepresentation of the facts relating to pending administrative decisions or legislative actions to any official in the legislative or executive branch;

(d) No person shall, knowing a document to contain a false statement relating to pending administrative decisions or legislative actions, cause a copy of the document to be transmitted to an official in the legislative or executive branch without notifying the official in writing of the truth.

(e) No information copied from registration forms and activity reports required by this part or from lists compiled from such forms and reports shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fundraising affair or for any commercial purpose.

(f) No public official shall be employed as a lobbyist while acting as a public official, except as provided in § 1-1162.28.

(g)(1) No lobbyist or registrant or person acting on behalf of the lobbyist or registrant, shall provide legal representation, or other professional services, to an official in the legislative or executive branch, or to a member of his or her staff, at no cost or at a rate that is less than the lobbyist or registrant would routinely bill for the representation or service in the marketplace.

(2) Notwithstanding paragraph (1) of this section, a nonprofit organization that routinely provides legal representation or other services to clients at no cost may provide such representation or services to such client when doing so serves the purposes for which such services are routinely provided, and the representation and services are not provided by a lobbyist or registrant.

(Apr. 27, 2012, D.C. Law 19-124, § 231, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(c), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1162.30.

Editor's notes. — Section 2(c) of D.C. Law 20-79 would have amended (g)(2) by striking the phrase "and the representation and services are not provided by a lobbyist or registrant".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the

fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

Subchapter III. Campaign Finance.

PART A.

OFFICE OF CAMPAIGN FINANCE.

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§ 1-1163.02. Office of Director of Campaign Finance established; enforcement of subchapter.

(a) There is established within the Elections Board the Office of Campaign Finance, which shall be headed by the Director of Campaign Finance. The Elections Board shall appoint the Director of Campaign Finance, who shall serve at the pleasure of the Elections Board. The Director of Campaign Finance shall be entitled to receive compensation at the maximum rate for Grade 16 of the District Schedule, pursuant to subchapter XI of Chapter 6 of this title [§ 1-611.01 et seq.]. The Director of Campaign Finance shall be responsible for the administrative operations of the Elections Board pertaining to this subchapter and shall perform other duties as may be delegated or assigned by regulation or by order of the Elections Board; provided, that the Elections Board shall not delegate to the Director of Campaign Finance the making of regulations regarding elections.

(b)(1) The Elections Board may issue, amend, and rescind rules and regulations related to the operation of the Director of Campaign Finance, absent recommendation of the Director of Campaign Finance.

(2) The Elections Board shall prepare an annual report of the Director of Campaign Finance's performance pursuant to his or her functions as prescribed § 1-1163.04, in addition to those duties the Elections Board may by law assign.

(c) Where the Elections Board, following the presentation by the Director of Campaign Finance of evidence constituting an apparent violation of this subchapter, makes a finding of an apparent violation of this subchapter, it shall refer the case to the United States Attorney for the District of Columbia for prosecution, and shall make public the fact of such referral and the basis for the finding. In addition, the Elections Board, through its General Counsel, shall initiate, maintain, defend, or appeal any civil action (in the name of the Elections Board) relating to the enforcement of the provisions of this subchapter. The Elections Board may, through its General Counsel, petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this subchapter. The Director of Campaign Finance shall have no authority concerning the enforcement of provisions of subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.], and recommendations of criminal or civil, or both, violations under [subchapter I of Chapter 10 of this Title [§1-1001.01 et seq.]. shall be presented by the General Counsel

to the Elections Board in accordance with the rules and regulations of general application adopted by the Elections Board in accordance with the provisions of Chapter 5 of Title 2. Upon the direction of the Elections Board, the Director of Campaign Finance may be called upon to investigate allegations of violations of the elections laws in accord with the provisions of this subsection.

(Apr. 27, 2012, D.C. Law 19-124, § 302, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(d), 61 DCR 153.)

Section references. — This section is referenced in § 1-604.06, § 1-1161.01, and § 1-1163.03.

Legislative history of Law 20-79. — Law 20-79, the "Campaign Finance Reform and Transparency Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-76. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-249 and transmitted to Congress for its review. D.C. Law 20-79 became effective on February 22, 2014.

Editor's notes. — Section 2(d) of D.C. Law 20-79 would have substituted "for prosecution as provided for in § 1-1163.35" for "to the United States Attorney for the District of Columbia for prosecution" in (c).

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.03. Powers of Director of Campaign Finance.

(a)(1) The Director of Campaign Finance, under regulations of general applicability approved by the Elections Board, shall have the power:

(A) To require any person to submit in writing reports and answers to questions as the Director of Campaign Finance may prescribe relating to the administration and enforcement of this subchapter; and the submission shall be made within such reasonable period and under oath or otherwise as the Director of Campaign Finance may determine;

(B) To require any person to submit through an electronic format or medium the reports required in this subchapter. The Elections Board shall issue regulations governing the submission of reports, pursuant to this subparagraph, through a standardized electronic format or medium;

(C) To administer oaths;

(D) To require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(E) In any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director of Campaign Finance and has the power to administer oaths and, in these instances, to compel testimony and the production of evidence in the same manner as authorized under subparagraph (D) of this paragraph;

(F) To pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia;

(G) To accept gifts; and

(H) To institute or conduct, on his or her own motion, an informal hearing on alleged violations of the reporting requirements contained in this subchapter. Where the Director of Campaign Finance, in his or her discretion,

determines that a violation has occurred, the Director of Campaign Finance may issue an order to the offending party or parties to cease and desist the violations within the 5-day period immediately following the issuance of the order. Should the offending party or parties fail to comply with the order, the Director of Campaign Finance shall present evidence of the failure to the Elections Board. Following the presentation of evidence to the Elections Board by the Director of Campaign Finance, in an adversary proceeding and an open hearing, the Elections Board may refer the matter to the United States Attorney for the District of Columbia in accordance with the provisions in § 1-1163.02(c) or may dismiss the action.

(2) Subpoenas issued under this section shall be issued by the Director of Campaign Finance upon the approval of the Elections Board.

(b) The Superior Court of the District of Columbia may, upon petition by the Elections Board, in case of refusal to obey a subpoena or order of the Elections Board issued under subsection (a) of this section, issue an order requiring compliance; and any failure to obey the order of the court may be punished by the court as contempt.

(c) All investigations of alleged violations of this subchapter shall be made by the Director of Campaign Finance in his or her discretion, in accordance with procedures of general applicability issued by the Director of Campaign Finance in accordance with Chapter 5 of Title 2. All allegations of violations of this subchapter, which shall be presented to the Elections Board, in writing, shall be transmitted to the Director of Campaign Finance without action by the Elections Board. In a reasonable time, the Director of Campaign Finance shall cause evidence concerning the alleged violation to be presented to the Elections Board, if he or she believes that sufficient evidence exists constituting an apparent violation. Following the presentation of evidence to the Elections Board by the Director of Campaign Finance, in an adversary proceeding and an open hearing, the Elections Board may refer the matter to the United States Attorney for the District of Columbia in accordance with the provisions of § 1-1163.02(c), or may dismiss the action. In no case may the Elections Board refer information concerning an alleged violation of this subchapter to the United States Attorney for the District of Columbia without the presentation of evidence herein provided by the Director of Campaign Finance. Should the Director of Campaign Finance fail to present a matter or advise the Elections Board that insufficient evidence exists to present a matter, or that an additional period of time is needed to investigate the matter further, within 90 days of its receipt by the Elections Board or the Director of Campaign Finance, the Elections Board may order the Director of Campaign Finance to present the matter as herein provided. The provisions of this subsection shall in no manner limit the authority of the United States Attorney for the District of Columbia.

(Apr. 27, 2012, D.C. Law 19-124, § 303, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(e), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(e)(1) of D.C. Law 20-79 would have amended (a)(1)(B) as follows:

(A) Subparagraph (B) is amended to read as follows:

"(B) To require any person to submit through an electronic format or medium the reports required in this title;"

(B) Subparagraph (H) is amended by striking the phrase "to the United States Attorney for the District of Columbia" and inserting the phrase "for prosecution" in its place.

Section 2(e)(2) of D.C. Law 20-79 would have amended (c) as follows:

Strike the phrase "to the United States Attorney for the District of Columbia" wherever it appears and insert the phrase "for prosecution" in its place.

(B) Strike the sentence "The provisions of this subsection shall in no manner limit the authority of the United States Attorney for the District of Columbia.".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.04. Duties of Director of Campaign Finance.

The Director of Campaign Finance shall:

(1) Develop and furnish prescribed forms, materials, and electronic formats or mediums, including electronic or digital signatures, for the making of the reports and statements required to be filed with him or her pursuant to this subchapter;

(1A) [Not funded].

(1B) [Not funded].

(2) Develop a filing, coding, and cross-indexing system consonant with the purposes of this subchapter;

(3) Make the reports and statements filed with him or her available for public inspection and copying, commencing as soon as practicable, but not later than the end of the 2nd day following the day during which it was received, and to permit and facilitate copying of any report or statement by hand and by duplicating machine, as requested by any person, at reasonable cost to the person, except any information copied from the reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(4) Preserve reports and statements for a period of 10 years from date of receipt;

(5) Compile and maintain a current list of all statements or parts of statements on file pertaining to each candidate;

(6) Prepare and publish other reports as he or she may consider appropriate;

(7) Assure dissemination of statistics, summaries, and reports prepared under this subchapter, including a biennial report summarizing the receipts and expenditures of candidates for public office in the prior 2-year period, and the receipts and expenditures of political, exploratory, inaugural, transition, and legal defense committees during the prior 2-year period. The Director of Campaign Finance shall make available to the Council, Mayor, Attorney General, and the general public the first report by January 31, 2013, and shall present the summary report on the same date every 2 years thereafter. The report shall describe the receipts and expenditures of candidates for the

Chairman and members of the Council, Mayor, and Attorney General, the President and members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following data, as well as other information that the Director of Campaign Finance considers appropriate:

(A) A summary of each candidate's receipts, in dollar amount and percentage terms, by donor categories that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political party committees, other political committees, corporations, partnerships, and labor organizations;

(B) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;

(C) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

(D) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

(E) A summary of the receipts and expenditures of political, exploratory, inaugural, transition, and legal defense committees, using categories considered appropriate by the Director of Campaign Finance;

(7A) [Not funded].

(8) Make audits and field investigations with respect to reports and statements filed under this subchapter, and with respect to alleged failures to file any report or statement required under the provisions of this subchapter; and

(9) Perform such other duties as the Elections Board may require.

(Apr. 27, 2012, D.C. Law 19-124, § 304, 59 DCR 1862; Dec. 13, 2013, D.C. Law 20-60, § 302(b), 60 DCR 15487; Feb. 22, 2014, D.C. Law 20-79, § 2(f), 61 DCR 153.)

Section references. — This section is referenced in § 1-1163.02.

Effect of amendments. — The 2013 amendment by D.C. Law 20-60, in the introductory paragraph of (7), substituted "the Council, Mayor, Attorney General" for "the Mayor, Council" and substituted "candidates for the Chairman and members of the Council, Mayor, and Attorney General" for "candidates for Mayor, the Chairman and members of the Council."

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(b) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — See note to § 1-1162.26.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 302 of the act shall apply as of December 13, 2013.

Section 2(f)(1) of D.C. Law 20-79 would have added (1A) and (1B) to read as follows:

"(1A) Require that all reports filed with the Elections Board pursuant to this title be submitted online, provided that reasonable accommodations shall be made where an actual hardship in complying with this paragraph is demonstrated to the Elections Board. The Elections Board shall issue regulations governing the online submission of reports, pursuant to this paragraph;"

"(1B) Publish all information submitted by recipients and agencies pursuant to sections of this title online in a publicly accessible, widely accepted, nonproprietary, searchable, platform-

independent, sortable, computer-readable format within 24 hours of filing. The database of electronic filings and other data within the portal shall be available via bulk download from the portal website;".

Section 2(f)(2) of D.C. Law 20-79 would have amended (7) to read as follows:

"(7) Ensure dissemination of statistics, summaries, and reports prepared under this title, including a biennial report summarizing the receipts and expenditures of candidates in the prior 2-year period and the receipts and expenditures of political committees, political action committees, and independent expenditures during the prior 2-year period. The Director of Campaign Finance shall make available to the Mayor, Council, and general public the first biennial report by January 31, 2013, and shall present the summary report on the same date every 2 years thereafter. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, President and members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information, as well as other information that the Director of Campaign Finance considers appropriate:

"(A) A summary of each candidate's receipts, in dollar amount and percentage terms, by donor categories that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political party committees, other political committees and political action committees, corporations, partnerships, and labor organizations;

"(B) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;

"(C) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

"(D) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

"(E) A summary of the receipts and expenditures of political committees and political action committees using categories considered appropriate by the Director of Campaign Finance;".

Section 2(f)(3) of D.C. Law 20-79 would have added (7A) to read as follows:

"(7A) Require a candidate for public office and the treasurer of any political committee, political action committee, or independent expenditure committee to attend a training program conducted by the Director of Campaign Finance concerning compliance with this title. Such training shall:

"(A) Be conducted in person, although online materials may be used to supplement the training;

"(B) Be completed in accordance with a schedule to be published by the Director of Campaign Finance, or by individual request as the Director of Campaign Finance deems appropriate; and

"(C) Upon completion, result in the completion of an oath or affirmation to follow the District's campaign finance laws, to be developed by the Director of Campaign Finance. The names of the participants shall be posted on the website of the Office of Campaign Finance;".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.06. Advisory opinions.

(a) Upon application made by any individual holding public office, any candidate, any person who may be a potential registrant under this subchapter, or any political, exploratory, inaugural, transition, or legal defense committee, the Elections Board shall provide within a reasonable period of time an advisory opinion with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this subchapter or of any provision of subchapter I of Chapter 10 of this title[§ 1-1001.01 et seq.]. over which the Elections Board has primary jurisdiction. The Elections Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days of its receipt by the

Elections Board. Comments upon the requested opinions shall be received by the Elections Board for a period of at least 15 days following publication in the District of Columbia Register. The Elections Board may waive the advance notice and public comment provisions, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or morals.

(b) Advisory opinions shall be published in the District of Columbia Register within 30 days of their issuance; provided, that the identity of any person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without his or her prior consent in writing. When issued according to rules of the Elections Board, an advisory opinion shall be deemed to be an order of the Elections Board.

(c) [Not funded].

(Apr. 27, 2012, D.C. Law 19-124, § 306, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(g), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(g)(1) of D.C. Law 20-79 would have rewritten the first sentence in (a) to read as follows:

"Upon application made by any individual holding public office, any candidate, any person required to submit filings to the Elections Board under this title, any person who reasonably anticipates being required to submit filings to the Elections Board under this title in connection with a pending election or any subsequent election, or any political committee, political action committee, or other person under the jurisdiction of the Elections Board, the Elections Board shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this title or of any provision of Title I of the Election Code over which the Elections Board has primary jurisdiction".

Section 2(g)(2) of D.C. Law 20-79 would have added (c) to read as follows:

"(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the Elections Board is lawful if:

"(1) The person requested the advisory opinion;

"(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

"(3) The person, in good faith, substantially complies with any recommendations in the opinion".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

PART B.

CAMPAIGN FINANCE COMMITTEES.

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§ 1-1163.07. Organization of committees.

Political, exploratory, transition, and inaugural committees, which are established pursuant to this part, shall be subject to the following requirements:

(1) Each committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization. The statement of organization shall include:

(A) The name and address of the committee;

(B) The name, address, and position of the custodian of books and accounts;

(C) The name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(C-i) [Not funded].

(D) The name and address of the bank or banks designated by the committee as the committee's depository or depositories, together with the subchapter and number of each account and safety deposit box used by that committee at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of each account or box; and

(E) Other information as shall be required by the Director of Campaign Finance.

(2) Any change in information previously submitted in a statement of organization shall be reported to the Director of Campaign Finance within the 10-day period following the change.

(3) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director of Campaign Finance.

(4) Every committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer for the committee and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a committee without the authorization of its chairman or treasurer, or their designated agents.

(5)(A) For every contribution and expenditure of $50 or more for or on behalf of a committee, a detailed account shall be submitted to the treasurer of a committee on demand, or within 5 days after receipt of the contribution or expenditure, of the amount, the name and address (including the occupation and the principal place of business, if any) of the contributor or the individual to whom the expenditure was made, and the date of the contribution or expenditure. For an expenditure, the account should also include the office sought by the candidate on whose behalf the expenditure was made.

(B) The treasurer or candidate shall obtain and preserve receipted bills and records as may be required by the Elections Board.

(6) All funds of a committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of the committee.

(Apr. 27, 2012, D.C. Law 19-124, § 307, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(h), 61 DCR 153.)

Section references. — This section is referenced in § 1-1001.16, § 1-1001.17, § 1-1163.08, § 1-1163.10, and § 1-1163.11.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(h)(1) of D.C.

Law 20-79 would have amended the lead-in text by striking the phrase "Political, exploratory, transition, and inaugural committees, which are established pursuant to this subtitle," and inserting the phrase "Political committees, political action committees, and independent expenditure committees" in its place.

Section 2(h)(2) of D.C. Law 20-79 would have added (1)(C-i) as follows:

"(C-i) The name, address, and position of all directors and officers;".

Section 2(h)(3) of D.C. Law 20-79 would have amended (4) as follows:

(A) Strike the phrase "No contribution and no expenditure shall" and insert the phrase "No contribution or expenditure may" in its place.

(B) Strike the phrase "No expenditure shall" and insert the phrase "No expenditure may" in its place.

Section 2(h)(4) of D.C. Law 20-79 would have amended (5)(A) as follows:

(A) Strike the phrase "contribution and expenditure" and insert the phrase "contribution or expenditure" in its place.

(B) Strike the phrase "for or" and insert the phrase "accepted or made" in its place.

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.09. Reporting.

(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

(1) The treasurer of each political committee supporting a candidate;

(2) The treasurer of each political committee engaged in obtaining signatures on any initiative, referendum, or recall petition, or engaged in promoting or opposing the ratification of any initiative, referendum, or recall measure placed before the electors of the District of Columbia, and each candidate required to register under this subchapter; and

(3) The treasurer of each exploratory, inaugural, and transition committee.

(b) The reports shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and on the 8th day next preceding the date on which the election is held, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

(c) Each report under this section shall disclose:

(1) The amount of cash on hand at the beginning of the reporting period;

(2) The full name and mailing address, including the occupation and the principal place of business, if any, of each person who has made one or more contributions to or for a committee or candidate, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of the contributions;

(2A) [Not funded].

(3) The total sum of individual contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

(4) Each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans; and

(5) The net amount of proceeds from:

(A) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by a committee;

(B) Mass collections made at the events; and

(C) Sales by a committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(6) Each contribution, rebate, refund, or other receipt of $50 or more not otherwise listed under paragraphs (2) through (5) of this subsection;

(7) The total sum of all receipts by or for a committee or candidate during the reporting period;

(8) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee or candidate within the calendar year in an aggregate amount or value of $10 or more, the amount, date, and purpose of each expenditure, and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made;

(9) The total sum of expenditures made by a committee or candidate during the calendar year;

(10) The amount and nature of debts and obligations owed by or to the committee, in a form as the Director of Campaign Finance may prescribe, and a continuous reporting of its debts and obligations after the election when the Director of Campaign Finance may require until the debts and obligations are extinguished; and

(11) Other information as may be required by the Director of Campaign Finance.

(d) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during the year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the committee or candidate shall file a statement to that effect.

(e)(1) A report or statement required by this part to be filed by a treasurer of a committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing the report or statement.

(2) A copy of a report or statement shall be preserved by the person filing it for a period to be designated by the Elections Board in a published regulation.

(3) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.

(f) [Not funded].

(Apr. 27, 2012, D.C. Law 19-124, § 309, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(i), 61 DCR 153.)

Section references. — This section is referenced in § 1-1001.16, § 1-1001.17, § 1-1163.13, and § 1-1163.17.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section (i)(1) of D.C. Law 20-79 would have rewritten (a) and (b) to read as follows:

"(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

"(1) The treasurer of each political committee;

"(2) The treasurer of each political action committee; and

"(3) The treasurer of each independent expenditure committee.

"(b)(1) The reports required by subsection (a) of this section shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and 8 days before an election, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt".

Section (i)(2) of D.C. Law 20-79 would have amended (c) as follows:

(A) A new paragraph (2A) is added to read as follows:

"(2A) For each contribution by a business contributor, any information provided by that business contributor in accordance with section 313(b);".

(B) Paragraph (4) is amended by striking the final word "and".

(C) Paragraph (8) is amended by striking the semicolon and inserting the phrase ", and for each expenditure made by a political action committee or independent expenditure committee, the name of any candidate, initiative, referendum, or recall in support of or opposition to which the expenditure is directed;" in its place.

Section (i)(3) of D.C. Law 20-79 would have amended (e) to read as follows:

"(e)(1) A report or statement required by this subtitle shall be verified by the oath or affirmation of the person filing the report or statement.

"(2) The oath or affirmation required under this subsection shall be given under penalty of perjury and shall state that the filer has used all reasonable diligence in the preparation of the report or statement and the report or statement is true and complete to the best of the filer's knowledge.

"(3) An oath or affirmation by a candidate shall also state that the candidate has used all reasonable diligence to ensure that:

"(A) The candidate and the candidate's political committees are in compliance with this subtitle; and

"(B) The candidate's political committees have advised their contributors of the obligations imposed on those contributors by this title.

"(4) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made".

Section (i)(4) of D.C. Law 20-79 would have added (f) to read as follows:

"(f) Each political committee (including principal campaign, inaugural, transition, and exploratory committees) shall, in a separate schedule of its report to be filed under subsection (a) of this section, disclose the:

"(1) Name, address, and employer of each person reasonably known by the committee to have bundled in excess of $10,000 during the reporting period; and

"(2) For each person, the total of the bundling".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.10. Principal campaign committee.

Emergency legislation. — For temporary (90 day) addition of section, see § 2(a) of Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Clarification Emergency Amendment Act of 2012 (D.C. Act 19-371, May 16, 2012, 59 DCR 5711).

For temporary (90 day) addition of section, see § 1072(c) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 1072(c) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

§ 1-1163.10a. Fund balance requirements of principal campaign committees.

Within the limitations specified in this chapter, any surplus, residual, or unexpended campaign funds received by or on behalf of an individual who seeks nomination for election, or election to office, shall be:

(1) Contributed to a political party for political purposes;

(2) Used to retire the proper debts of his or her political committee that received the funds;

(3) Transferred to a political committee, a charitable organization in accordance with § 47-1803.03(a)(8), or, in the case of an elected official, an established constituent services fund; or

(4) Returned to the donors as follows:

(A) In the case of an individual defeated in an election, within 6 months following the election;

(B) In the case of an individual elected to office, within 6 months following the election; and

(C) In the case of an individual ceasing to be a candidate, within 6 months thereafter.

(Apr. 27, 2012, D.C. Law 19-124, § 310a, as added Sept. 20, 2012, D.C. Law 19-168, § 1072(c), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added this section.

Emergency legislation. — For temporary addition of section, see § 1072(c) of the Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary addition of section, see § 1072(c) of the Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 1-1162.24.

§ 1-1163.11. Specific requirements for statements of organization filed by political committees.

In addition to the statement of organization set forth in § 1-1163.07, each political committee shall also file the following information with the Director of Campaign Finance within 10 days after the political committee's organization:

(1) The names, addresses, and relationships of affiliated or connected organizations;

(2) The area, scope, or jurisdiction of the political committee;

(3) The name, address, office sought, and party affiliation of:

(A) Each candidate whom the committee is supporting; and

(B) Any other individual, if any, whom the committee is supporting for nomination for election or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party; or, if the committee is supporting or opposing any initiative or referendum, the summary statement and short title of the initiative or referendum, prepared in accordance with § 1-1001.16; or, if the committee is supporting or opposing any recall measure, the name and office of the public official whose recall is sought or opposed in accordance with § 1-1001.17;

(4) A statement whether the political committee is a continuing one; and

(5) The disposition of residual funds which will be made in the event of dissolution.

(Apr. 27, 2012, D.C. Law 19-124, § 311, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(j), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(j) of D.C. Law 20-79 would have amended the lead-in text by striking the phrase "political committee" and inserting the phrase "political committee, political action committee, and independent expenditure committee" in its place; and would have deleted "political" preceding "committee" in (2) and (4).

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.13. Reports by others than committees and candidates.

Every person (other than a committee or candidate) who makes contributions or expenditures, other than by contribution to a committee or candidate, in an aggregate amount of $50 or more within a calendar year shall file with the Director of Campaign Finance a statement containing the information required by § 1-1163.09. Statements required by this section shall be filed on the dates on which reports by committees are filed, but need not be cumulative.

(Apr. 27, 2012, D.C. Law 19-124, § 313, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(k), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(k) of D.C. Law 20-79 would have amended this section to read as follows:

"Additional identifications and certifications.

"(a)(1) Every political action committee and every independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled or directed by any public official or candidate, by any political committee, or by any political party.

"(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has made no contributions or transfer of funds to any public official or candidate, any political committee, or any political action committee.

"(b)(1) A business contributor to a political committee, political action committee, or independent expenditure committee shall provide the committee with the identities of the contributor's affiliated entities that have also contributed to the committee.

"(2) A business contributor shall comply with all requests from the Office of Campaign Finance to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the deemed relevant to enforcing the provisions of this act.

"(3) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year, other than by contribution to a committee or candidate, shall, in a report filed with the Director of Campaign Finance, identify the name and address of the person, identify the person's affiliated entities that have also made an independent expenditure, the amount and object of the expenditures, and the names of any candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures are directed. The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1000 or more in a 2-week period, in which case the report shall be filed within 14 days of the independent expenditure.

"(c) Statements required by this section shall be filed on the dates on which reports by committees are filed, but the content of the filings need not be cumulative.

"(d) Every person who files statements with the Director of Campaign Finance has a continuing obligation to provide the Director with correct and up-to-date information".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.13. Additional identifications and certifications.

(a)(1) Every political action committee and every independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled or directed by any public official or candidate, by any political committee, or by any political party.

(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has made no contributions or transfer of funds to any public official or candidate, any political committee, or any political action committee.

(b)(1) A business contributor to a political committee, political action committee, or independent expenditure committee shall provide the committee with the identities of the contributor's affiliated entities that have also contributed to the committee.

(2) A business contributor shall comply with all requests from the Office of Campaign Finance to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the deemed relevant to enforcing the provisions of this chapter.

(3) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year, other than by contribution to a committee or candidate, shall, in a report filed with the Director of Campaign Finance, identify the name and address of the person, identify the person's affiliated entities that have also made an independent expenditure, the amount and object of the expenditures, and the names of any candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures are directed. The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1000 or more in a 2-week period, in which case the report shall be filed within 14 days of the independent expenditure.

(c) Statements required by this section shall be filed on the dates on which reports by committees are filed, but the content of the filings need not be cumulative.

(d) Every person who files statements with the Director of Campaign Finance has a continuing obligation to provide the Director with correct and up-to-date information.

(Apr. 27, 2012, D.C. Law 19-124, § 313, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(k), 61 DCR 153.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-79 rewrote this section.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

For text of section applicable until contingency met, see the first version.

§ 1-1163.15. Identification of campaign literature.

(a) All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, initiative, referendum, or recall petitions, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office, or for the support or defeat of any initiative, referendum, or recall measure, shall be identified by the words "paid for by" followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.

(b) Each committee and candidate shall include on the face or front page of all literature and advertisement soliciting funds the following notice:
"A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections.".

(c) [Not funded].

(Apr. 27, 2012, D.C. Law 19-124, § 315, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(l), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(l) of D.C. Law 20-79 would have added (c) to read as follows:

"(c) Any advertisement supporting or opposing a candidate, initiative, referendum, or recall that is disseminated to the public by a political committee, political action committee, or independent expenditure committee or any other person shall disclose, in the advertisement, the identity of the advertisement's sponsor".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.19. Aggregate and individual contribution limits of exploratory committees.

(a) Exploratory committees shall not receive aggregate contributions in excess of:

(1) $200,000 for a Mayoral exploratory committee;

(1A) $150,000 for an Attorney General exploratory committee;

(2) $150,000 for a Chairman of the Council exploratory committee;

(3) $100,000 for an at-large member of the Council exploratory committee;

(4) $50,000 for a Ward Councilmember or President of the State Board of Education exploratory committee; and

(5) $20,000 for a member of the State Board of Education exploratory committee.

(b) Exploratory committees shall not receive individual contributions in excess of:

(1) $2,000 for a Mayoral exploratory committee;

(1A) $1,500 for an Attorney General exploratory committee;

(2) $1,500 for a Chairman of the Council exploratory committee;

(3) $1,000 for an at-large member of the Council exploratory committee;

(4) $500 for a Ward Councilmember or President of the State Board of Education exploratory committee; and

(5) $200 for a member of the State Board of Education exploratory committee.

(Apr. 27, 2012, D.C. Law 19-124, § 319, 59 DCR 1862; Dec. 13, 2013, D.C. Law 20-60, § 302(c), 60 DCR 15487; Feb. 22, 2014, D.C. Law 20-79, § 2(m), 61 DCR 153.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-60 added (a)(1A) and (b)(1A).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(c) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — See note to § 1-1162.26.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 302 of the act shall apply as of December 13, 2013.

Section 2(m) of D.C. Law 20-79 would have substituted "No person, including a business contributor, may make contributions" for "Exploratory committees shall not receive individual contributions" in (b).

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the

fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.22. Contributions to inaugural committees.

No person shall make any contribution to or for an inaugural committee which, and the Mayor shall not receive any contribution to or for an inaugural committee from any person which, when aggregated with all other contributions to or for the inaugural committee received from such person, exceeds $10,000 in an aggregate amount; provided, that the $10,000 limitation shall not apply to contributions made by the Mayor for the purpose of funding his or her own inaugural committee within the District of Columbia.

(Apr. 27, 2012, D.C. Law 19-124, § 322, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(n), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — The 2014 amendment by D.C. Law 20-79 would have amended this section to read as follows:

"Contributions to inaugural committees.

"No person, including a business contributor, may make any contribution to or for an inaugural committee, and the Mayor or Mayor-elect shall not receive any contribution to or for an inaugural committee from any person, that when aggregated with all other contributions to or for the inaugural committee received from such person, exceeds $10,000 in an aggregate amount; provided, that the $10,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own inaugural committee within the District".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.25. Fund balance requirements for transition committees.

Any balance in the transition committee fund shall be transferred only to a nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District of Columbia for a minimum of one calendar year before the date of any transfer, or to a constituent-service program pursuant to § 1-1163.38.

(Apr. 27, 2012, D.C. Law 19-124, § 325, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(o), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(o) of D.C. Law 20-79 would have deleted "of Columbia" following "District".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.25. Fund balance requirements for transition committees.

Any balance in the transition committee fund shall be transferred only to a nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer, or to a constituent-service program pursuant to § 1-1163.38.

(Apr. 27, 2012, D.C. Law 19-124, § 325, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(o), 61 DCR 153.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-79 deleted "of Columbia" following "District".

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

For text of section applicable until contingency met, see the first version.

§ 1-1163.26. Contributions to transition committees.

(a) No person shall make any contribution to or for a transition committee which, and the Mayor shall not receive any contribution to or for a transition committee from any person which, when aggregated with all other contributions to or for the transition committee received from the person, exceed $2,000 in an aggregate amount; provided, that the $2,000 limitation shall not apply to contributions made by the Mayor for the purpose of funding his or her own transition committee within the District of Columbia.

(b) No person shall make any contribution to a transition committee which, and the Chairman of the Council shall not receive any contribution to a transition committee from any person which, when aggregated with all other contributions to the transition committee received from the person, exceeds $1,000 in an aggregate amount; provided, that the $1,000 limitation shall not apply to contributions made by the Chairman of the Council for the purpose of funding his or her own transition committee within the District of Columbia.

(Apr. 27, 2012, D.C. Law 19-124, § 326, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(p), 61 DCR 153.)

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(p) of D.C. Law 20-79 would have amended this section to read as follows:

"Contributions to transition committees.

"(a) No person, including a business contributor, may make any contribution to or for a transition committee, and the Mayor or Mayor-elect may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to or for the transition committee received from the person, exceed $2,000 in an aggregate amount; provided, that the $2,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own transition committee within the District.

"(b) No person, including a business contributor, may make any contribution to a transition committee, and the Chairman of the Council or Chairman-elect may not receive any contribution to a transition committee from any person, that when aggregated with all other contributions to the transition committee received from

the person, exceeds $1,000 in an aggregate amount; provided, that the $1,000 limitation shall not apply to contributions made by the Chairman of the Council or Chairman-elect for the purpose of funding his or her own transition committee within the District".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

PART D.

CONTRIBUTION LIMITATIONS.

§ 1-1163.33. Contribution limitations.

(a) No person shall make any contribution which, and no person shall receive any contribution from any person which, when aggregated with all other contributions received from that person relating to a campaign for nomination as a candidate or election to public office, including both the primary and general election or special elections, exceeds:

(1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, $2,000;

(1A) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, $1,500;

(2) In the case of a contribution in support of a candidate for Chairman of the Council or for the recall of the Chairman of the Council, $1,500;

(3) In the case of a contribution in support of a candidate for member of the Council elected at-large or for the recall of a member of the Council elected at-large, $1,000;

(4) In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or for the recall of a member of the Council elected from a ward, $500;

(5) In the case of a contribution in support of a candidate for member of the State Board of Education elected from an election ward or for the recall of a member of the State Board of Education elected from an election ward or for an official of a political party, $200; and

(6) In the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Commission, $25.

(b)(1) No person shall make any contribution in any one election for Chairman of the Council, each member of the Council, Mayor, Attorney General, and each member of the State Board of Education (including primary and general elections, but excluding special elections), which when combined with all other contributions made by that person in that election to candidates and political committees exceeds $8,500.

(2) All contributions to a candidate's principal political committee shall be treated as contributions to the candidate and shall be subject to the contribution limitations contained in this section.

(c) In no case shall any person receive or make any contribution in legal tender in an amount of $25 or more.

(d)(1) No person shall make contributions to any one political committee in any one election, including primary and general elections, but excluding special elections, which, in the aggregate, exceeds $5,000.

(2) For the purposes of this subsection, the term "political committee " does not include an individual.

(e) No person shall make a contribution or cause a contribution to be made in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

(f) Any expenditure made by any person advocating the election or defeat of any candidate for office which is not made at the request or suggestion of the candidate, any agent of the candidate, or any political committee authorized by the candidate to make expenditures or receive contributions for the candidate is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this section.

(g) All contributions made by any person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee, which are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or political committee, shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this section.

(h)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his or her personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to a public office unless that loan or advance is evidenced by a written instrument fully disclosing the terms, conditions, and parts to the loan or advance. The amount of any loan or advance shall be included in computing and applying the limitations contained in this section only to the extent of the balance of the loan or advance that is unpaid at the time of determination.

(2) For the purposes of this subsection, the term "immediate family" means the candidate's spouse, parent, brother, sister, or child, and the spouse of a candidate's parent, brother, sister, or child.

(i) For the purposes of this subsection, the term "immediate family" means the candidate's spouse, parent, brother, sister, or child, and the spouse of a candidate's parent, brother, sister, or child.

(Apr. 27, 2012, D.C. Law 19-124, § 333, 59 DCR 1862; Dec. 13, 2013, D.C. Law 20-60, § 302(d), 60 DCR 15487; Feb. 22, 2014, D.C. Law 20-79, § 2(q), 61 DCR 153.)

Section references. — This section is referenced in § 1-1162.31, § 1-1163.20, and § 1-1163.38.

Effect of amendments. — The 2013 amendment by D.C. Law 20-60 added (a)(1A); and substituted "for Chairman of the Council, each member of the Council, Mayor, Attorney General" for "for Mayor, Chairman of the Council, each member of the Council" in (b)(1).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(d) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — See note to § 1-1162.26.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 302 of the act shall apply as of December 13, 2013.

Section 2(q) of D.C. Law 20-79 would have amended this section to read as follows:

"Contribution limitations.

"(a) No person, including a business contributor, may make any contribution, and no person may receive any contribution from any contributor, that when aggregated with all other contributions received from that contributor relating to a campaign for nomination as a candidate or election to public office, including both the primary and general election or special elections, exceeds:

"(1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, $2,000;

"(2) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, $1,500;

"(3) In the case of a contribution in support of a candidate for Chairman of the Council or for the recall of the Chairman of the Council, $1,500;

"(4) In the case of a contribution in support of a candidate for member of the Council elected at-large or for the recall of a member of the Council elected at-large, $1,000;

"(5) In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or for the recall of a member of the Council elected from a ward, $500;

"(6) In the case of a contribution in support of a candidate for member of the State Board of Education elected from an election ward or for the recall of a member of the State Board of Education elected from an election ward or for an official of a political party, $200; and

"(7) In the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Commission, $25.

"(b) A business contributor shall certify for each contribution that it makes that no affiliated entities have contributed an amount that when aggregated with the business contributor's contribution would exceed the limits imposed by this act.

"(c)(1) No person, including a business contributor, may make any contribution in any one election for Mayor, Attorney General, Chairman of the Council, each member of the Council, and each member of the State Board of Education (including primary and general elections, but excluding special elections), that when combined with all other contributions made by that contributor in that election to candidates and political committees exceeds $8,500.

"(2) All contributions to a candidate's principal political committee shall be treated as contributions to the candidate and shall be subject to the contribution limitations contained in this section.

"(d) Any entity, whether or not considered distinct under Title 29 of the District of Columbia Official Code, may be an affiliated entity for purposes of this act.

"(e)(1) No political committee or political action committee may receive in any one election, including primary and general elections, any contribution in the form of cash or money order from any one person that in the aggregate exceeds $100.

"(2) No person may make any contribution in the form of cash or money order which in the aggregate exceeds $100 in any one election to any one political committee or political action committee, including primary and general elections.

"(f) No person may make contributions to any one political committee or political action committee in any one election, including primary and general elections, but excluding special elections, that in the aggregate exceed $5,000.

"(g) No contributor may make a contribution or cause a contribution to be made in the name of another person, and no person may knowingly accept a contribution made by one person in the name of another person.

"(h) An independent expenditure is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this section.

"(i) All contributions made by a person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee that are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or political committee shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this act.

"(j)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his or her personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to a public office unless a written instrument fully discloses the terms, conditions, and parts to the loan or advance. The amount of any loan or advance shall be included in computing and applying the limitations contained in this section only to the extent of the balance of the loan or advance that is unpaid at the time of determination.

"(2) For the purposes of this subsection, the term 'immediate family' means the candidate's spouse, domestic partner, parent, brother, sister, or child, and the spouse or domestic partner of a candidate's parent, brother, sister, or child.

"(k) No contributions made to support or oppose initiative or referendum measures shall be affected by the provisions of this section".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.34. Partnership contributions.

(a) A contribution by a partnership shall be attributed to each partner:

(1) In direct proportion to his or her share of the partnership profits, according to instructions that shall be provided by the partnership to the political committee or candidate; or

(2) By agreement of the partners, as long as:

(A) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased); and

(B) These partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them.

(b) A contribution by a partnership shall not exceed the limitations on contributions pursuant to this part. No portion of such contribution may be made from the profits of a corporation that is a partner.

(Apr. 27, 2012, D.C. Law 19-124, § 334, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(r), 61 DCR 153.)

Section references. — This section is referenced in § 1-1162.31.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(r) of D.C. Law 20-79 would have amended (a)(1) to read as follows:

"In direct proportion to his or her share of the partnership profits, according to instructions that shall be provided by the partnership to the political committee, political action committee, or candidate; or".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

PART E.

PROHIBITED ACTIVITIES AND ENFORCEMENT.

§ 1-1163.35. Penalties.

(a)(1) Any person who violates any provision of parts A through E of this subchapter or of subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.], may be assessed a civil penalty by the Elections Board under paragraph (2) of this subsection of not more than $200, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income, whichever is greater, for each such violation. Each occurrence of a violation of parts A through E of this subchapter and each day of noncompliance with a disclosure requirement of parts A through E of this subchapter or an order of the Elections Board shall constitute a separate offense.

(2) A civil penalty shall be assessed by the Elections Board by order only after the person charged with a violation has been given an opportunity for a hearing, and the Elections Board has determined, by decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be of record and shall be held in accordance with Chapter 5 of Title 2.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, the Elections Board may issue a schedule of fines for violations of Parts A through E of this subchapter, which may be imposed ministerially by the Director of Campaign Finance. A civil penalty imposed under the authority of this paragraph may be reviewed by the Elections Board in accordance with the provisions of paragraph (2) of this subsection. The aggregate set of penalties imposed under the authority of this paragraph may not exceed $2,000.

(4) If the person against whom a civil penalty is assessed fails to pay the penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be forthwith sent by registered or certified mail to the respondent and his attorney of record, and if the respondent is a political, exploratory, inaugural, transition, or legal defense committee, to the chairman of the committee, and then the Elections Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Elections Board or it may remand the proceedings to the Elections Board for further action as it may direct. The court may determine de novo all issues of law, but the Election Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(b) Except as provided in subsection (c) of this section, any person who violates any of the provisions of parts A through E of this subchapter shall be fined not more than $5,000, or shall be imprisoned for not longer than 6 months, or both.

(c) Any person who knowingly files or causes to be filed any false or misleading statement, report, voucher, or other paper, or makes any false or misleading statement to the Elections Board, shall be fined not more than $10,000, or shall be imprisoned for not longer than 5 years, or both.

(d) Prosecutions of violations of parts A through E of this subchapter shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

(e) All actions of the Elections Board or of the United States Attorney for the District of Columbia to enforce the provisions of parts A, B, D, and E of this subchapter must be initiated within 6 years of the actual occurrence of the alleged violation.

(Apr. 27, 2012, D.C. Law 19-124, § 335, 59 DCR 1862; Feb. 22, 2014, D.C. Law 20-79, § 2(s), 61 DCR 153.)

Section references. — This section is referenced in § 1-1001.02 and § 1-1163.37.

Legislative history of Law 20-79. — See note to § 1-1163.02.

Editor's notes. — Section 2(s) of D.C. Law 20-79 would have amended this section to read as follows:

"Penalties.

"(a)(1) Except for violations subject to civil penalties identified under paragraph (2) of this subsection, any person who violates any provision of subtitles A through E of this title or of Title I of the Election Code may be assessed a civil penalty for each violation of not more than $2,000, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income, whichever is greater, by the Elections Board pursuant to paragraph (3) of this subsection. For the purposes of this section, each occurrence of a violation of subtitles A through E of this title, and each day of noncompliance with a disclosure requirement of subtitles A through E of this title or an order of the Elections Board, shall constitute a separate offense.

"(2)(A) A candidate or other person charged with the responsibility under this Title for the filing of any reports or other documents required to be filed pursuant to this title who fails, neglects, or omits to file any such report or document at the time and in the manner prescribed by law, or who omits or incorrectly states any of the information required by law to be included in such report or document, in addition to any other penalty provided by law, may be assessed a civil penalty of not more than $4,000 for the first offense and not more than $10,000 for the second and each subsequent offense.

"(B) A political committee, political action committee, or independent expenditure committee that violates subtitle B of this title shall be subject to a civil penalty not to exceed $4,000 for the first offense, and not more than $10,000 for the second and each subsequent offense.

"(C) A person who makes a contribution, gift, or expenditure in violation of subtitles A through E of this title may be assessed a civil penalty by the Elections Board not to exceed $4,000, or 3 times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

"(D) A person who aids, abets, or participates in the violation of any provision of subtitles A through E of this title or of Title I of the Election Code shall be subject to a civil penalty not to exceed $1,000.

"(3) A civil penalty shall be assessed by the Elections Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the Elections Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with the Administrative Procedure Act.

"(4) Notwithstanding the provisions of paragraph (3) of this subsection, the Elections Board may issue a schedule of fines that may be imposed administratively by the Director of Campaign Finance for violations of subtitles A through E of this title. A civil penalty imposed under the authority of this paragraph may be reviewed by the Elections Board in accordance with the provisions of paragraph (3) of this subsection. The aggregate amount of penalties imposed under the authority of this paragraph may not exceed $4,000.

"(5) If a person against whom a civil penalty is assessed fails to pay the penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and if the respondent is a political committee, political action committee, or independent expenditure committee, to the chairperson of the committee, and the Elections Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Elections Board or it may remand the proceedings to the Elections Board for further action as it may direct. The court may determine de novo all issues of law, but the Election Board's findings of fact, if supported by substantial evidence, shall be conclusive.

"(b) Except as provided in subsection (c) of this section, any person who violates any of the provisions of subtitles A through E of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned for not longer than 6 months, but not both.

"(c) Any person who knowingly violates any of the provisions of subtitles A through E of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned for not longer than 5 years, or both.

"(d) Prosecutions pursuant to subsection (b) may be brought by the United States Attorney for the District of Columbia, in the name of the United States, or by the Attorney General for the District of Columbia, in the name of the District of Columbia. If the Attorney General for the District of Columbia initiates an investigation for the purpose of prosecution pursuant to subsection (b) of this section, he shall promptly notify the United States Attorney for the District of Columbia. Prosecutions pursuant to subsection (c) of this section shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

"(e) All actions of the Elections Board, the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia to enforce the provisions of subtitles A, B, D, and E of this title shall be initiated within 6 years of the actual occurrence of the alleged violation".

Applicability of D.C. Law 20-79: Section 3 of D.C. Law 20-79 provided that the act shall apply upon the latest of: (1) The inclusion of the fiscal effect of the act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register; or (2) January 31, 2015.

§ 1-1163.36. Prohibition on the use of District government resources for campaign-related activities.

(a) No resources of the District of Columbia government, including the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, and telephones and other utilities, shall be used to support or oppose any candidate for elected office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted in accordance with § 1-203.03.

(b)(1) This section shall not prohibit the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education from expressing their views on a District of Columbia election as part of their official duties.

(2) This subsection shall not be construed to authorize any member of the staff of the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education, or any other employee of the executive or legislative branch to engage in any activity to support or oppose any candidate for elected office, whether partisan or nonpartisan, an initiative, referendum, or recall measure during their hours of work, or the use of any nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, to support or oppose an initiative, referendum, or recall matter.

(Apr. 27, 2012, D.C. Law 19-124, § 336, 59 DCR 1862; Dec. 13, 2013, D.C. Law 20-60, § 302(e), 60 DCR 15487.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-60 substituted "the Chairman and members of the Council, the Mayor, the Attorney General" for "the Mayor, the Chairman and members of the Council" in (b)(1); and substituted "the Mayor, the Chairman and members of the Council" for "the Chairman and members of the Council, the Mayor, the Attorney General in (b)(2).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(e) of the Election Code Conforming Emergency Act of 2013 (D.C. Act 20-143, July 31, 2013, 60 DCR 11799, 20 DCSTAT 1990).

Legislative history of Law 20-60. — See note to § 1-1162.26.

Editor's notes. — Applicability of D.C. Law 20-60: Section 401(b) of 20-60 provided that § 302 of the act shall apply as of December 13, 2013.

Subchapter IV. Transition Provisions; Applicability.

§ 1-1164.01. Transition provisions; applicability.

(a) Subchapter II, parts A and B, of this chapter shall apply as of April 27, 2012, except that neither the Ethics Board or the Director of Government Ethics shall receive, investigate, or adjudicate violations of the Code of Conduct, or issue advisory opinions, conduct ethics training, or issue ethics manuals until October 1, 2012.

(b) Subchapter II, part C, of this chapter shall apply as of April 27, 2012, except that the delivery of statements required by § 1-1162.23(c)(2)(C) shall be delivered to the Elections Board until October 1, 2012. The Elections Board shall enforce subchapter II, part C, of this chapter until October 1, 2012, after which pending matters shall be transferred to the Ethics Board for enforcement.

(c) Subchapter II, part D, of this chapter shall apply as of October 1, 2012, except that the Office of Campaign Finance shall administer and enforce the subchapter, including receiving and reviewing the necessary disclosures, until January 1, 2013.

(d) Subchapter II, part E, of this chapter shall apply as of April 27, 2012, except that the enforcement of the provisions of part E shall be enforced by the Office of Campaign Finance until October 1, 2012.

(e) Subchapter III, parts A and B, of this chapter shall apply as of April 27, 2012.

(f) Subchapter III, part C, of this chapter shall apply as of October 1, 2012.

(g) Subchapter III, part D, of this chapter shall apply as of April 27, 2012.

(h) Subchapter III, part E, of this chapter shall apply as of April 27, 2012.

(i) Subchapter III, part F, of this chapter shall apply as of April 27, 2012.

(j) [Reserved].

(k) [Reserved].

(l) This subchapter shall apply as of April 27, 2012.

(m) This chapter shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

(Apr. 27, 2012, D.C. Law 19-124, § 601, 59 DCR 1862; Sept. 20, 2012, D.C. Law 19-168, § 1072(d), 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added the second sentence in (b); and added "except that the Office of Campaign Finance shall administer and enforce the subchapter, including receiving and reviewing the necessary disclosures, until January 1, 2013" in (c).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Clarification Emergency Amendment Act of 2012 (D.C. Act 19-371, May 16, 2012, 59 DCR 5711).

For temporary (90 day) addition of section, see § 3 of Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Clarification Emergency Amendment Act of 2012 (D.C. Act 19-371, May 16, 2012, 59 DCR 5711).

For temporary (90 day) amendment of section, see § 1072(d) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1072(d) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR

9290).

Legislative history of Law 19-168. — See note to § 1-1162.24.

CHAPTER 11B. PROHIBITION ON GOVERNMENT EMPLOYEE ENGAGEMENT IN POLITICAL ACTIVITY.

Sec.
1-1171.01. Definitions.
1-1171.02. Political activity authorized; prohibitions.
1-1171.03. Political activities on duty; prohibition.
1-1171.04. Enforcement.
1-1171.05. Criminal penalties. [Repealed].
1-1171.06. Rules.
1-1171.06a. Conforming amendment. [Omitted].
1-1171.07. Applicability.

§ 1-1171.01. Definitions.

For the purposes of this chapter, the term:

(1) "Board" means the District of Columbia Board of Ethics and Government Accountability established by § 1-1162.02.

(2) "Candidate" means an individual who seeks nomination or election to any elective office in the District whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election.

(3) "Employee" means:

(A) Any individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia, other than the following (if not otherwise employed by the District):

(i) Employees of the courts of the District of Columbia;

(ii) The Mayor;

(iii) The Attorney General, after January 1, 2018;

(iv) The members of the Council;

(v) Advisory Neighborhood Commissioners;

(vi) Members of the State Board of Education; or

(vii) Members of the District of Columbia Statehood Delegation;

(B) A member of a board or commission who is nominated for a position pursuant to § 1-523.01(e); and

(C) A member of a board or commission who is nominated for a position pursuant to § 1-523.01(f), when the member is engaged in political activity that relates to the subject matter that the member's board or commission regulates.

(4) "On duty" means the time period when an employee is:

(A) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or

(B) Representing any agency or instrumentality of the District government in an official capacity.

(5) "Partisan" when used as an adjective means related to a political party.

(6) "Partisan political group" means any committee, club, or other organization that is regulated by the District and that is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

(7) "Partisan political office" means any office in the District government for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization.

(8)(A) "Political activity" means any activity that is regulated by the District directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum. For the purposes of § 1-1171.03, political activity is not limited to activities regulated by the District.

(B)(i) The Board may, by rule, define certain basic activities as nonpolitical activities.

(ii) The term "nonpolitical activities" shall include:

(I) Media inquiries;

(II) Answering questionnaires; and

(III) Scheduling.

(9)(A) "Political contribution" means:

(i) A gift, subscription, loan, advance, or deposit of money, or anything of value, made for any political purpose;

(ii) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(iii) A payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(iv) The provision of personal services, paid or unpaid, for any political purpose.

(B) The term "political contribution" shall not include the value of services provided without compensation by any individual on behalf of any candidate, campaign, political party, or partisan political group.

(10) "Political party" means a national political party, a State political party, or an affiliated organization that is regulated by the District.

(11) "Political purpose" means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group that is regulated by the District.

(Mar. 31, 2011, D.C. Law 18-335, § 2, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(a), 61 DCR 169.)

Cross references. — Hatch Act retention, § 1-625.01.

Effect of amendments. — The 2014 amendment by D.C. Law 20-80 rewrote this section.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(a) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4,

May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(a) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) amendment of this section, see § 2(a) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 18-335. — Law 18-335, the "Prohibition on Government Employee Engagement in Political Activity Act of 2010," was introduced in Council and assigned Bill No. 18-460. The Bill was adopted on first and second readings on Nov. 23, 2010, and Dec. 21, 2010, respectively. Signed by the Mayor on Jan. 12, 2011, it was assigned Act No. 18-679 and transmitted to Congress for its review. D.C. Law 18-335 became effective on Mar. 31, 2011.

Legislative history of Law 20-80. — Law 20-80, the "Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-80. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-250 and transmitted to Congress for its review. D.C. Law 20-80 became effective on February 22, 2014.

§ 1-1171.02. Political activity authorized; prohibitions.

(a) An employee may take an active part in political management or in political campaigns; provided, that an employee shall not:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) Knowingly solicit, accept, or receive a political contribution from any person, except if the employee has filed as a candidate for political office;

(3) File as a candidate for election to a partisan political office; or

(4) Knowingly direct, or authorize anyone else to direct, that any subordinate employee participate in an election campaign or request a subordinate to make a political contribution.

(b) The Mayor and each member of the Council may designate one employee while on leave to perform any of the functions described in subsection (a)(2) of this section; provided, that:

(1) The employee shall not perform the activities while the employee is on duty or in any room or building occupied in the discharge of official duties in the District government, including any agency or instrumentality thereof;

(2) Any designation pursuant to this subsection shall be made in writing to the Secretary of the District of Columbia or the Secretary to the Council;

(3) Any designated employee shall file a report within 15 days of being designated and as otherwise required pursuant to § 1-1162.24; and

(4) The Mayor and the Council shall issue standards of conduct implementing this subsection.

(c) Repealed.

(Mar. 31, 2011, D.C. Law 18-335, § 3, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(b), 61 DCR 169.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-80, substituted "§ 1-1162.24" for "§ 1-1106.02" in (b)(3); and repealed (c).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(b) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(b)

of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) amendment of this section, see § 2(b) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 18-335. — See note to § 1-1171.01.

Legislative history of Law 20-80. — See note to § 1-1171.01.

§ 1-1171.03. Political activities on duty; prohibition.

(a) An employee shall not engage in political activity:

(1) While the employee is on duty;

(2) In any room or building occupied in the discharge of official duties in the District government, including any agency or instrumentality thereof;

(3) While wearing a uniform or official insignia identifying the office or position of the employee; or

(4) Using any vehicle owned or leased by the District of Columbia, including any agency or instrumentality thereof.

(b) An employee may not coerce, explicitly or implicitly, any subordinate employee to engage in political activity.

(c) For the purposes of this section, the term "political activity" is not limited to activities regulated by the District and includes soliciting, accepting, receiving, or making political contributions or other political activities.

(Mar. 31, 2011, D.C. Law 18-335, § 4, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(c), 61 DCR 169.)

Section references. — This section is referenced in § 1-1171.01.

Effect of amendments. — The 2014 amendment by D.C. Law 20-80 designated the existing text as (a); and added (b) and (c).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(c) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(c) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) amendment of this section, see § 2(c) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 18-335. — See note to § 1-1171.01.

Legislative history of Law 20-80. — See note to § 1-1171.01.

§ 1-1171.04. Enforcement.

A violation of this chapter shall constitute a violation of the Code of Conduct as defined in § 1-1161.01(7), and shall be enforceable by the Board in accordance with Chapter 11A of this title [§ 1-1161.01 et seq.].

(Mar. 31, 2011, D.C. Law 18-335, § 5, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(d), 61 DCR 169.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-80 rewrote this section.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(d) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary

(90 days) amendment of this section, see § 2(d) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) amendment of this section, see § 2(d) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 18-335. — See note to § 1-1171.01.

Legislative history of Law 20-80. — See note to § 1-1171.01.

§ 1-1171.05. Criminal penalties. [Repealed].

Repealed.

(Mar. 31, 2011, D.C. Law 18-335, § 6, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(e), 61 DCR 169.)

Temporary legislation. — For temporary (225 days) repeal of this section, see § 2(e) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) repeal of this section, see § 2(e) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) repeal of this section, see § 2(e) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 20-80. — See note to § 1-1171.01.

§ 1-1171.06. Rules.

The Board, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter.

(Mar. 31, 2011, D.C. Law 18-335, § 7, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(f), 61 DCR 169.)

Effect of amendments. — The 2014 amendment by D.C. Law 20-80 substituted "Board" for "Board of Elections and Ethics".

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(f) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(f) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) amendment of this section, see § 2(f) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 18-335. — See note to § 1-1171.01.

Legislative history of Law 20-80. — See note to § 1-1171.01.

§ 1-1171.06a. Conforming amendment. [Omitted].

Omitted.

(Mar. 31, 2011, D.C. Law 18-335, § 7a, as added Feb. 22, 2014, D.C. Law 20-80, § 2(g), 61 DCR 169.)

Temporary legislation. — For temporary (225 days) addition of D.C. Law 18-335, § 7a, see § 2(g) of the Prohibition on Government Employee Engagement in Political Activity

Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) addition of D.C. Law 18-335, § 7a, amending subdivision (7) of this section, see § 2(g) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) addition of D.C. Law 18-335, § 7a, amending subdivision (7) of this section, see § 2(g) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 20-80. — Law 20-80, the "Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-80. The Bill was adopted on first and second readings on November 5, 2013, and December 3, 2013, respectively. Signed by the Mayor on December 27, 2013, it was assigned Act No. 20-250 and transmitted to Congress for its review. D.C. Law 20-80 became effective on February 22, 2014.

Editor's notes. — D.C. Law 18-335, § 7a, as added by D.C. Law 20-80, § 2(g), is codified as § 1-1161.01(7)(E-i).

§ 1-1171.07. Applicability.

(a) This chapter shall apply as of January 29, 2013.

(b) For an offense committed between January 29, 2013, and March 7, 2013, this chapter shall not be construed to prohibit any conduct that was proscribed under the federal Hatch Act, 5 U.S.C. § 7321 et seq., or this chapter, or authorize any penalties that were not available before March 7, 2013.

(Mar. 31, 2011, D.C. Law 18-335, § 8, 58 DCR 599; Feb. 22, 2014, D.C. Law 20-80, § 2(h), 61 DCR 169.)

Cross references. — Hatch Act retention, § 1-625.01.

Effect of amendments. — The 2014 amendment by D.C. Law 20-80 rewrote (a), which formerly read "This chapter shall apply upon enactment by the Congress of an act excluding the District of Columbia from the coverage of 5 U.S.C. §§ 7321 through 7326 (Hatch Act)"; and rewrote (b), which formerly read "This chapter shall apply upon inclusion of its fiscal effect in an approved budget and financial plan".

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(h) of the Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013 (D.C. Law 20-4, May 18, 2013, 60 DCR 4624, 20 DCSTAT 1268).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(h) of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment Act of 2013 (D.C. Act 20-25, March 7, 2013, 60 DCR 3986, 20 DCSTAT 485).

For temporary (90 days) amendment of this section, see § 2(h) of the Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013 (D.C. Act 20-231, December 20, 2013, 61 DCR 3, 20 DCSTAT 2633).

Legislative history of Law 18-335. — See note to § 1-1171.01.

Legislative history of Law 20-80. — See note to § 1-1171.01.

Editor's notes. — Congress enacted and the President signed Public Law 112-230 on December 28, 2012, excluding the District of Columbia from the coverage of 5 U.S.C. §§ 7321 through 7326 (Hatch Act).

Public Law 112-230 was approved December 28, 2012, satisfying the applicability requirement of subsection (a) of this section.

The Budget Director of the Council of the District of Columbia has determined that the fiscal effect of D.C. Law 18-335 has been included in an approved budget and financial plan.

CHAPTER 12. NOTARIES PUBLIC.

Sec.

1-1201. Appointment; representation of clients before government departments; license fee; rules.

§ 1-1201. Appointment; representation of clients before government departments; license fee; rules.

(a) The Mayor of the District of Columbia shall have power to appoint such number of notaries public, residents of said District, or whose sole place of business or employment is located within said District, as, in his discretion, the business of the District may require: Provided, that the appointment of any person as such notary public, or the acceptance of his commission as such, or the performance of the duties thereunder, shall not disqualify or prevent such person from representing clients before any of the departments of the United States government in the District of Columbia or elsewhere: Provided further, that such person so appointed as a notary public who appears to practice or represent clients before any such department is not otherwise engaged in government employ, and shall be admitted by the heads of such departments to practice therein in accordance with the rules and regulations prescribed for other persons or attorneys who are admitted to practice therein: And provided further, that no notary public shall be authorized to take acknowledgments, administer oaths, certify papers, or perform any official acts in connection with matters in which he is employed as counsel, attorney, or agent, or in which he may be in any way interested before any of the departments aforesaid.

(b) Each notary public before obtaining his commission, and for each renewal thereof, shall pay to the Director of the Department of Finance and Revenue of the District of Columbia a license fee of $30: Provided, that no license fee shall be collected from any notary public in the service of the United States government or the District of Columbia government whose notarial duties are confined solely to government official business: And provided further, that no notary fee shall be collected at any time by a notary public who is exempted from the payment of the license fee. The Mayor is hereby authorized to refund, in the manner prescribed by law for the refunding of erroneously paid taxes, the amount of any fee erroneously paid or collected under this section.

(c) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, [§ 2-501 et seq.], may issue rules to carry out the provisions of this section and §§ 1-1202 to 1-1215, including rules to establish and amend fees.

(Mar. 3, 1901, 31 Stat. 1279, ch. 854, § 558; June 29, 1906, 34 Stat. 622, ch. 3616; Feb. 10, 1925, 43 Stat. 821, ch. 198; Dec. 16, 1944, 58 Stat. 810, ch. 597, § 1; June 22, 1983, D.C. Law 5-14, § 304, 30 DCR 2632; Sept. 24, 2010, D.C. Law 18-223, § 1072, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21,§ 9020(b), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 8003, 59 DCR 8025.)

Section references. — This section is referenced in § 47-2853.04.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 deleted the former last sentence of (b), which read: "All proceeds collected pursuant to this section shall be deposited into the unrestricted fund balance of the General Fund of the District of Columbia."

Emergency legislation.

For temporary (90 day) amendment of section, see § 8003 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 8003 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR

9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes.

Section 8010 of D.C. Law 19-168 provided that §§ 8002, 8003, 8004, 8005, 8006, and 8007 of the act shall apply as of September 14, 2011.

Chapter 14. Office of the Chief Technology Officer.

Subchapter II. Technology Services Support

Sec.
1-1431. Definitions.
1-1433. Technology Infrastructure Services Support Fund.

Subchapter II. Technology Services Support.

§ 1-1431. Definitions.

For the purposes of this subchapter, the term:

(1) Repealed.

(2) Repealed.

(3) "Costs" includes obligations incurred before September 18, 2007.

(4) "DC-NET program" means a program conducted by the Office of the Chief Technology Officer to implement and manage a state-of-the-art, fiber-optic network owned by the District government.

(5) Repealed.

(6) Repealed.

(Sept. 18, 2007, D.C. Law 17-20, § 1002, 54 DCR 7052; Dec. 24, 2013, D.C. Law 20-61, § 1042(a), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 repealed (1), (2), (5), and (6).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 1042(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1042(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title.

Section 1041 of D.C. Law 20-61 provided that Subtitle E of Title I of the act may be cited as the "Technology Services Support Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 1-1433. Technology Infrastructure Services Support Fund.

(a) There is established as a special fund the Technology Infrastructure Services Support Fund ("Fund"), which shall be administered by the Chief Technology Officer in accordance with subsection (c) of this section.

(b) The Fund shall consist of the revenue from payments by independent District government agencies and federal agencies for services provided by the Office of the Chief Technology Officer in accordance with subsection (c) of this section.

(c) The Fund shall be used solely to defray operational costs of programs of the Office of the Chief Technology Officer, other than the DC-Net program, that the Chief Technology Officer shall designate based on the use of such programs to provide services to independent agencies of the District and agencies of the federal government.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(Sept. 18, 2007, D.C. Law 17-20, § 1004, 54 DCR 7052; Dec. 24, 2013, D.C. Law 20-61, § 1042(b), 60 DCR 12472.)

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 rewrote the section.

Emergency legislation.

For temporary (90 days) amendment of this section, see § 1042(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 1042(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to § 1-1431.

Short title. — Section 1041 of D.C. Law 20-61 provided that Subtitle E of Title I of the act may be cited as the "Technology Services Support Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

TITLE 2. GOVERNMENT ADMINISTRATION.

Chapter
2. Contracts.
3A. Government Procurement.
3B. Other Procurement Matters.
5. Administrative Procedure.

Chapter 2. Contracts.

Subchapter IX-A. Small, Local, and Disadvantaged Business Enterprise Development and Assistance

Part B

Department of Small and Local Business Development

Sec.
2-218.13. Organization and functions of the Department.

Part D

Programs for Certified Business Enterprises

Subpart 2. Requirements of programs

2-218.42. Required programs, procedures, and policies to achieve contracting and procurement goals.
2-218.43. Bid and proposal preferences.
2-218.46. Performance and subcontracting requirements for construction and non-construction contracts; subcontracting plans.
2-218.50. Special requirements for government corporations.

Subpart 3. Certification

2-218.61. Certificate of registration.

Subpart 5. Financial Assistance

2-218.76. Commercial Revitalization Assistance Fund.

Subchapter X-A. Living Wage Requirements

2-220.05. Exemptions.
2-220.08. Enforcement.
2-220.11. Applicability.

Subchapter IX-A. Small, Local, and Disadvantaged Business Enterprise Development and Assistance.

PART B.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT.

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§ 2-218.13. Organization and functions of the Department.

(a)(1) It shall be the goal and responsibility of the Department to stimulate and foster the economic growth and development of businesses based in and serving the District of Columbia, particularly certified business enterprises, with the intended goals of:

(A) Stimulating and expanding the local tax base of the District of Columbia;

(B) Increasing the number of viable employment opportunities for District residents; and

(C) Extending economic prosperity to local business owners, their employees, and the communities they serve.

(2) Through advocacy, business development programs, and technical assistance offerings, the Department shall seek to maximize opportunities for certified business enterprises to participate in:

(A) The District's contracting and procurement process;

(B) The District's economic development activities; and

(C) Federal and private sector business opportunities that occur in the District of Columbia.

(b) The Department shall administer part D of this subchapter except for those responsibilities assigned to another agency by this subchapter or through an order of the Mayor. The Director shall establish procedures and guidelines for the implementation of the programs established pursuant to part D of this subchapter. The Mayor shall not reassign a responsibility specifically assigned to the Department by this subchapter.

(c) The Department shall include, and the Director shall establish, oversee, and administer, the following divisions which shall have the stated responsibilities:

(1) The Office of Certification which shall be responsible for:

(A) Reviewing applications for certification as a:

(i) Local business enterprise;

(ii) Small business enterprise;

(iii) Disadvantaged business enterprise;

(iv) Resident-owned business;

(v) Longtime resident business; or

(vi) Local business enterprise with its principal office located in an enterprise zone;

(B) Providing information and assistance to business enterprises regarding the certification and application process;

(C) Determining a business enterprise's or joint venture's initial eligibility for certification under part D of this subchapter and reviewing and determining the continued eligibility of business enterprises and joint ventures certified under part D of this subchapter;

(D) Determining the percentage or the dollar amount of a project performed by a joint venture that may be attributed toward an agency's percentage goal;

(E) Providing information and assistance to the Commission and the District of Columbia Auditor in performance of its appeals and audit functions under §§ 2-218.22, 2-218.50, and 2-218.53;

(F) Repealed;

(G) Repealed;

(H) Repealed;

(I) Reviewing the quarterly and annual reports of agencies required by § 2-218.53; and

(J) Reviewing any reports as may be required of third parties;

(2) The Office of Business Opportunities and Access to Capital, which shall be responsible for:

(A) Maintaining, growing, and advocating on behalf of certified business enterprises in the following areas:

(i) Certified business enterprises with less than $10 million in annual revenue;

(ii) Under separate criteria, certified business enterprises with over $10 million in annual revenue; and

(iii) All certified business enterprises that desire to participate in contracting opportunities with any government corporation;

(B) Maintaining and providing public access to a list of all current District government contracting and procurement bids and solicitations;

(C) Maintaining and providing public access to a list of other current government contracting and procurement bids and solicitations, including those of the federal government and nearby local jurisdictions;

(D) Monitoring agency contracting and procurement activities to the extent those activities are related to the achievement of the goals set forth in § 2-218.41;

(E) Monitoring third-party contracting and procurement activities to the extent those activities are related to the achievement of goals related to contracting with, and procuring from, certified business enterprises;

(F) Monitoring and preparing recommendations to ensure agency achievement of the goals set forth in § 2-218.41;

(G) Monitoring agency implementation of the programs required by part D of this subchapter;

(H) Maintaining a list of current private contracting and procurement bids and solicitations;

(I) Organizing and publicizing certified business enterprise opportunities and events where contracting, procurement, or networking opportunities will be available;

(J) Organizing or attending meetings with business groups and other organizations to provide information on the District's certified business enterprise programs, the certification process, and the services and activities of the Department;

(K) Making known to the public and the business community information on the District's certified business enterprise programs and the certification process; and

(L) Making known to the public and the business community information on the services and activities of the Department; and

(3) The Office of Training and Education, which shall be responsible for the following:

(A) Coordinating the District's offerings, curricula, and locations of educational and training classes, sessions, and seminars to assist small businesses in the following areas:

(i) Basic and intermediate business skills, such as bookkeeping, accounting, and marketing;

(ii) Locating and obtaining contracting and procurement opportunities; and

(iii) Locating and obtaining financing and capital;

(B) Maintaining a current list of educational and training classes, sessions, and seminars in the Washington Metropolitan Region in the subject

areas set forth in subparagraph (A) of this paragraph offered by persons or organizations outside the District government;

(C) To the extent feasible, coordinating the offerings, curricula, and locations of educational and training classes, sessions, and seminars in the Washington Metropolitan Region in the subject areas set forth in subparagraph (A) of this paragraph offered by persons or organizations outside the District government;

(D) To the extent necessary, providing educational and training classes, sessions, and seminars in the subject areas set forth in subparagraph (A) of this paragraph which are not otherwise conveniently or comprehensively provided by the District government or persons or organizations outside the District government; and

(E) Training agency contracting officers on the requirements and procedures of this subchapter.

(c-1) The Department shall have the authority to issues grants to local businesses (whether or not certified pursuant to this subchapter), community and neighborhood groups or other nonprofit organizations as necessary to effectuate the mission of the Department and the purposes of this subchapter.

(d) The Director may establish such other offices and the Department may take such other actions as are necessary or appropriate to carry out the provisions of this subchapter.

(Oct. 20, 2005, D.C. Law 16-33, § 2313, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(a), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(c), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(c), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, §§ 12(a), 13(a), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted a colon for the semicolon at the end of the introductory paragraph of (c)(2)(A); and validated previously made technical corrections.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

PART D.

PROGRAMS FOR CERTIFIED BUSINESS ENTERPRISES.

Subpart 1. Certified business enterprises.

§ 2-218.31. Local business enterprises.

Section references. — This section is referenced in § 2-218.02 and § 2-218.39.

Temporary Amendment of Section.

For temporary (225 days) addition of provisions concerning Certified Business Enterprise compliance, see §§ 2 to 6 of the Certified Business Enterprise Compliance Temporary Amendment Act of 2013 (D.C. Law 20-13, July 23, 2013, 60 DCR 7601, 20 DCSTAT 1760).

Emergency legislation.

For temporary (90 days) Certified Business Enterprise compliance, see §§ 2 to 6 of the

Certified Business Enterprise Compliance Emergency of 2013 (D.C. Act 20-62, April 30, 2013, 60 DCR 6403, 20 DCSTAT 1410).

Subpart 2. Requirements of programs.

§ 2-218.42. Required programs, procedures, and policies to achieve contracting and procurement goals.

To achieve the goals set forth in this subchapter, the Department shall establish by rules issued pursuant to § 2-218.72, programs for certified business enterprises. The Department shall include among these programs:

(1) A bid preference mechanism for certified business enterprises with principal offices located in an enterprise zone;

(2) A set-aside program for small business enterprises; and

(3) A set-aside program for certified business enterprises for the District of Columbia Supply Schedule.

(Oct. 20, 2005, D.C. Law 16-33, § 2342, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(g), 55 DCR 6107; Mar. 25, 2009, D.C. Law 17-353, § 243, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, § 12(b), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "certified business" for "local and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business" in (1).

Legislative history of Law 19-171. — See note to § 2-218.13.

§ 2-218.43. Bid and proposal preferences.

(a) In evaluating bids or proposals, agencies shall award preferences as follows:

(1) In the case of proposals, points shall be granted as follows:

(A) Three points for a small business enterprise;

(B) Five points for a resident-owned business;

(C) Five points for a longtime resident business;

(D) Two points for a local business enterprise;

(E) Two points for a local business enterprise with its principal office located in an enterprise zone;

(F) Two points for a disadvantaged business enterprise;

(G) Two points for a veteran-owned business enterprise; and

(H) Two points for a local manufacturing business enterprise.

(2) In the case of bids, a percentage reduction in price shall be granted as follows:

(A) Three percent for a small business enterprise;

(B) Five percent for a resident-owned business;

(C) Ten percent for a longtime resident business;

(D) Two percent for a local business enterprise;

(E) Two percent for a local business enterprise with its principal office located in an enterprise zone; and

(F) Two percent for a disadvantaged business enterprise.

(b) A certified business enterprise shall be entitled to any or all of the preferences provided in this section, but in no case shall a certified business enterprise be entitled to a preference of more than 12 points or a reduction in price of more than 12 percent.

(Oct. 20, 2005, D.C. Law 16-33, § 2343, 52 DCR 7503; Mar. 14, 2007, D.C. Law 16-266, § 2(b), 54 DCR 829; July 18, 2008, D.C. Law 17-207, § 2(h), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(h), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 13(b), 59 DCR 6190.)

Section references. — This section is referenced in § 2-218.46 and § 2-218.62.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 repealed D.C. Law 18-141, § 2(h)(3), which had amended (a)(1)(F) by striking the period and inserting the phrase "; and" in its place.

Legislative history of Law 19-171. — See note to § 2-218.13.

§ 2-218.46. Performance and subcontracting requirements for construction and non-construction contracts; subcontracting plans.

(a)(1) All construction contracts in excess of $250,000 shall include the following requirements:

(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(2) All non-construction contracts in excess of $250,000, unless a waiver has been approved by the Office of Contracting and Procurement, shall include the following requirements:

(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(3) For the purposes of this section, a business enterprise certified as a small business enterprise, local business enterprise, or disadvantaged busi-

ness enterprise shall not have to comply with the requirements set forth in paragraphs (1) or (2) of this subsection.

(b)(1)(A) Each construction contract for which a certified business enterprise is selected as a prime contractor and is granted points or a price reduction pursuant to § 2-218.43 or is selected through a set-aside program under this subpart shall include a requirement that the business enterprise perform at least 35% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort, excluding the cost of materials, goods, and supplies, shall be with certified business enterprises.

(B) If the total of the contracting effort, excluding the cost of materials, good, and supplies, proposed to be performed by certified business enterprises is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall not be eligible to receive preference points or price reductions for a period of not less than 2 years.

(2)(A) Each construction contract for which a joint venture is selected as a prime contractor and is granted points or a price reduction pursuant to § 2-218.43 or is selected through a set-aside program under this subpart shall include a requirement that the certified business enterprise perform at least 50% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if the joint venture subcontracts, 35% of the subcontracted effort, excluding the cost of materials, goods, and supplies, shall be with certified business enterprises.

(B) If the total of the contracting effort, excluding the cost of materials, good, and supplies, proposed to be performed by certified business enterprises is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall not be eligible to receive preference points or price reductions for a period of not less than 2 years.

(c) Each construction contract of $1 million or less for which a certified business enterprise is selected as a prime contractor and is granted points or a price reduction pursuant to § 2-218.43 or is selected through a set-aside program under this subpart shall include a requirement that the business enterprise perform at least 50% of the on-site work with its own work force.

(d) Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if the law requires subcontracting and the prime contractor fails to submit a subcontracting plan as part of its bid or proposal. A certified business enterprise subcontracting plan shall specify the following:

(1) The name and address of the subcontractor;

(2) Whether the subcontractor is currently certified as a certified business enterprise;

(3) The scope of work to be performed by the subcontractor; and

(4) The price to be paid by the contractor to the subcontractor.

(e) No prime contractor shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the contracting officer and the Director. Any reduction in the dollar volume of the subcontracted portion resulting from such amendment of the plan shall insure to the benefit of the District.

(f) No multiyear contracts or extended contracts in which the options or extensions exceed $1 million in value, which are not in compliance with this subchapter at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.

(g) The subcontracting requirements of this section may be waived pursuant to § 2-218.51.

(h) A prime contractor shall submit to the contracting officer and the Director copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

(i) Beginning on April 20, 2010, each contractor or beneficiary shall provide a copy of the contract, which includes the subcontracting plan for utilization of certified business enterprises, within 10 business days of its execution to the Office of District of Columbia Auditor. A quarterly report shall be provided to the Department and the Office of District of Columbia Auditor by the contractor or beneficiary, which shall include a list of each subcontractor identified in the subcontracting plan for utilization of certified business enterprises, and for each subcontract:

(1) The price to be paid by the contractor to the subcontractor;

(2) A description of the goods procured or the services contracted for; and

(3) The amount paid by the contractor to the subcontractor.

(Oct. 20, 2005, D.C. Law 16-33, § 2346, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(e), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(i), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(i), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(b), 57 DCR; Sept. 26, 2012, D.C. Law 19-171, § 12(c), 59 DCR 6190.)

Section references. — This section is referenced in § 2-218.12, § 2-218.51, § 47-4652, and § 47-4656.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "contractor" for "developer" in the second sentence of the introductory language of (i).

Legislative history of Law 19-171. — See note to § 2-218.13.

§ 2-218.50. Special requirements for government corporations.

(a) A government corporation shall comply with all provisions of this subchapter.

(b)(1)(A) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to each major phase of the development and construction of a project undertaken by the government corporation, including contracts for professional services, architectural, engineering, and other construction-related services and construction trade work, shall provide that at least 35% of the work on the project shall be awarded to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted

towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises.

(B) If there are insufficient qualified small business enterprises to fulfill the small business enterprise contracting requirement, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume of the project to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(2) Of the work required to be awarded pursuant to paragraph (1) of this subsection, at least 10% of those business enterprises shall be located in the ward in which the work is being performed.

(3) If 35% of the work required to be awarded pursuant to paragraph (1) of this subsection, is unattainable, the government corporation shall report this fact to the Council for reconsideration of this requirement.

(c) The subcontracting requirement of subsection (b) of this section may be waived pursuant to § 2-218.51.

(d)(1) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to the development and construction of a project undertaken by the government corporation, comply with the First Source Employment requirements of subchapter X of Chapter 2 of Title 2 [§ 2-219.01 et seq.].

(2) Of the jobs required to be filed pursuant to paragraph (1) of this subsection, at least 20% of those jobs shall be designated for residents in the ward in which the work is being performed.

(e)(1) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation or any agency or subsidiary of the government corporation with respect to the development and construction of a project undertaken by the government corporation shall comply with the requirements of subchapter I of Chapter 14 of Title 32 [§ 32-1401 et seq.].

(2)(A) Fifty percent of all apprenticeship hours performed pursuant to any apprenticeship programs related to the construction and operation of a project undertaken by the government corporation shall be performed by District of Columbia residents.

(B) Any prime contractor or subcontractor that fails to make a good faith effort to comply with the requirements of this paragraph shall be subject to a monetary fine in the amount of 5% of the direct or indirect labor costs of the contract. Fines shall be imposed by the Department of Employment Services to be applied to job training programs, subject to appropriations by Congress.

(f) Beginning with the first full quarter after April 20, 2010, each government corporation shall provide a quarterly report for every quarter, except for the 4th quarter, to the Department and to the District of Columbia Auditor within 30 days after the end of each quarter. The 4th quarter and annual report shall be submitted together. A quarterly report shall include the following information:

(1) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in construction and development projects;

(2) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in development projects as equity partners;

(3) The dollar volume and percentage of awards to certified business enterprises for contracting and procurement of goods and services;

(4) The dollar amount actually expended with local, small, and disadvantaged business enterprises in construction and development projects;

(5) The dollar amount actually expended with certified business enterprises in development projects as equity partners; and

(6) The dollar amount actually expended with certified business enterprises for contracting and procurement of goods and services.

(g) Beginning with fiscal year 2006, each government corporation shall provide an annual report to the Department and to the District of Columbia Auditor within 45 days after the end of each fiscal year. The annual report shall include the information required to be included in the quarterly reports (with the dollar percentages and volumes calculated on an annual basis, including 4th quarter reports).

(h) The District of Columbia Auditor shall monitor government corporation compliance with the reporting requirements of this section.

(i) The Department shall review the annual report of a government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the government corporation to achieve the goals set forth in this section. The Department shall make recommendations concerning activities in which the government corporation should engage in to meet or exceed the requirements set forth in this section. The Department's recommendations shall be submitted to the government corporation, the Commission, the Council, the Mayor, and the District of Columbia Auditor within 30 days of the government corporation's annual report submission.

(j) The Department may review the annual report of a government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the government corporation to achieve the goals set forth in this section. The Department may make recommendations concerning activities in which the government corporation should engage in to meet or exceed the requirements set forth in this section. The Department's recommendations, if any, shall be submitted to the government corporation and the District of Columbia Auditor.

(Oct. 20, 2005, D.C. Law 16-33, § 2350, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(g), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(l), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(a), 57 DCR 181; Apr. 20, 2010, D.C. Law 18-141, § 2(l), 57 DCR; Sept. 26, 2012, D.C. Law 19-171, § 14, 59 DCR 6190.)

Section references. — This section is referenced in § 1-301.181, § 1-301.182, § 1-301.184, § 2-218.13, § 2-218.51, and § 2-218.54.

Effect of amendments. The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (f).

Legislative history of Law 19-171. — See note to § 2-218.13.

Subpart 3. Certification.

§ 2-218.61. Certificate of registration.

(a) No business enterprise shall be permitted to participate in a program established under this part unless the business enterprise:

(1) Has demonstrated its capability to perform and been issued a certificate of registration under the provisions of this subchapter; or

(2) Has been issued a provisional certification under regulations issued pursuant to this subchapter.

(b)(1) An enterprise seeking to be certified as a local, small, or disadvantaged business enterprise, as a resident-owned business, or as a local business enterprise with its principal office located in an enterprise zone shall file with the Department a written application on such form as may be prescribed by the Department.

(2) The application shall include, at a minimum, the following documents and information:

(A) A certification of the correctness of the information provided;

(B) Written evidence that the applicant is:

(i) A bona fide local business enterprise;

(ii) A bona fide disadvantaged business enterprise;

(iii) A bona fide small business enterprise;

(iv) A bona fide local business enterprise located in an enterprise zone;

(v) A bona fide resident-owned business; or

(vi) A bona fide longtime resident business;

(C) Evidence of ability and character;

(D) Evidence of financial position, which may be the applicant's most recent financial statement. For the purposes of this subparagraph, the term "recent" means produced from current data no more than 90 days prior to the application date;

(E) Any other information the Commission or Department may require; and

(F) Federal income taxes, both corporate and personal, as well as District taxes, both corporate and personal.

(c) The Department shall issue the applicant a certificate of registration if:

(1) The information provided in the application or additional filings is satisfactory to the Department;

(2) The business enterprise meets the standards of this subchapter; and

(3) The applicant fulfills other requirements as may be established by the Commission or the Department.

(d) A certificate of registration shall expire 2 years from the date of approval of the application. A business enterprise that is registered with the Depart-

ment may voluntarily relinquish its registration as a certified business enterprise at any time prior to the expiration of the 2-year term.

(e) The Department shall give first priority in reviewing applications submitted pursuant to subsection (b) of this section to any business enterprises that has received a provisional certification pursuant to § 2-218.62.

(Oct. 20, 2005, D.C. Law 16-33, § 2361, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(i), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(g), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(p), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(n), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 13(c), 59 DCR 6190.)

Section references. — This section is referenced in § 2-218.62, § 2-218.63, and § 2-218.65.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — See note to § 2-218.13.

Subpart 5. Financial Assistance.

§ 2-218.76. Commercial Revitalization Assistance Fund.

(a)(1) There is established as a nonlapsing fund the Commercial Revitalization Assistance Fund ("Fund"). All funds deposited into the Fund and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(2) The Fund shall be administered by the Department of Small and Local Business Development and shall be separate and independent from any other commercial revitalization programs provided by the District.

(b) The Fund shall be used solely to provide commercial revitalization funding to Main Streets programs and other commercial revitalization services; provided, that the Fund shall not be used to provide commercial Clean Team services within a geographic area that is subject to a Business Improvement District, as defined in § 2-1215.02(7); except, that beginning in fiscal year 2013, the commercial Clean Team services shall include service in the vicinity of the intersection of Minnesota Avenue, S.E., and Pennsylvania Avenue, S.E.

(Oct. 20, 2005, D.C. Law 16-33, § 2376, as added Sept. 24, 2010, D.C. Law 18-223, § 2242, 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 2143, 59 DCR 8025.)

Section references. — This section is referenced in § 2-1215.20.

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added "provided, that the Fund shall not be used to provide commercial Clean Team services within a geographic area that is subject to a Business Improvement District, as defined in § 2-1215.02(7); except, that beginning in fiscal year 2013, the commercial Clean Team services shall include service in the vicinity of the intersection of Minnesota Avenue, S.E., and Pennsylvania Avenue, S.E." in (b).

Legislative history of Law 19-168. — Law

19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter X-A. Living Wage Requirements.

§ 2-220.05. Exemptions.

The following types of contracts, government assistance, and employment shall be exempt from the requirement of this subchapter:

(1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;

(2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;

(3) Contracts for electricity, telephone, water, sewer or other services delivered by a regulated utility;

(4) Contracts for services needed immediately to prevent or respond to a disaster or eminent [imminent] threat to public health or safety declared by the Mayor;

(5) Contracts or other agreements awarded to recipients that provide trainees with additional services including, but not limited to, case management and job readiness services; provided, that the trainees do not replace employees subject to this subchapter;

(6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided, that he or she does not replace employees subject to this subchapter;

(7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;

(8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S. C. § 501(c)(3));

(9) Medicaid provider agreements for direct care services to Medicaid recipients; provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for persons with intellectual disabilities, as those terms are defined in § 44-501; and

(10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

(June 8, 2006, D.C. Law 16-118, § 105, 53 DCR 2602; Mar. 2, 2007, D.C. Law 16-191, § 111, 53 DCR 6794; Sept. 26, 2012, D.C. Law 19-169, § 5(a), 59 DCR 5567.)

Section references. — This section is referenced in § 2-220.11.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "persons with intellectual disabilities" for "mentally retarded persons" in (9).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 2-220.08. Enforcement.

The payment of wages, enforcement of non-payment, and penalties and remedies for non-payment required under this subchapter shall be consistent with and subject to the provisions of Chapter 13 of Title 32. Failure to pay wages in conformance with this subchapter shall constitute unpaid wages and shall subject the violator to all procedures, liquidated damages and penalties, and any other remedies or relief applicable under Chapter 13 of Title 32 [§ 32-1301 et seq.].

(June 8, 2006, D.C. Law 16-118, § 108, 53 DCR 2602; Dec. 24, 2013, D.C. Law 20-61, § 2064, 60 DCR 12472.)

Section references. — This section is referenced in § 2-220.04 and § 2-220.06.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 substituted "wages, enforcement of non-payment, and penalties and remedies for non-payment required" for "wages required"; and added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2064 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 2064 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Short title. — Section 2061 of D.C. Law 20-61 provided that Subtitle G of Title II of the act may be cited as the "Wage Theft Prevention Amendment Act of 2013".

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

§ 2-220.11. Applicability.

(a) The requirements of this subchapter shall apply to contracts and agreements for government assistance ("agreement") entered into after June 8, 2006, and shall not apply to any existing agreement entered into prior to that date. Where an agreement is renewed or extended after that date, that renewal or extension shall be deemed a new agreement and shall trigger coverage under this subchapter if the terms of the renewed or extended agreement otherwise meet the requirements for coverage under this subchapter.

(b) Notwithstanding the requirements of § 2-220.05(9), a home care agency, community residence facility, or group home for persons with intellectual disabilities shall not be required to pay a living wage until implementing rules

are published in the District of Columbia Register and any necessary state plan amendments are approved.

(June 8, 2006, D.C. Law 16-118, § 111, 53 DCR 2602; Sept. 26, 2012, D.C. Law 19-169, § 5(b), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "persons with intellectual disabilities" for "mentally retarded persons" in (b).

Legislative history of Law 19-169. — See note to § 2-220.05.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 3. PROCUREMENT.

Unit A. Procurement Practices for the District Government.

Subchapter III. Source Selection and Contract Formation.

§ 2-303.20. Exemptions.

Editor's notes.

Section 19 of D.C. Law 19-171 made a technical correction made to this section after its repeal.

CHAPTER 3A. GOVERNMENT PROCUREMENT.

Subchapter I. General Provisions

Sec.
2-351.05. Application; exemptions.

Subchapter II. Procurement Organization

2-352.01. Office of Contracting and Procurement; authority.
2-352.06. Procurement training institute.

Subchapter IV. Source Selection and Contract Formation

2-354.07. Small purchase procurements.

Subchapter VIII. Supply Management

Sec.
2-358.03. Electronic Inventory Control System.

Subchapter IX. Prohibited Actions; Remedies

2-359.07. Debarment and suspension.

Subchapter XI. Miscellaneous Provisions

2-361.01. Green procurement.
2-361.03. Supply schedule, purchase card, and training funds.

Subchapter XII. Repealed Provisions; Transfers and Continuation

2-362.03. Applicability. [Repealed].

Subchapter I. General Provisions.

§ 2-351.05. Application; exemptions.

(a) Except as provided in this section, this chapter, except for § 2-352.02, shall apply to all subordinate agencies, instrumentalities, and employees of the District government, independent agencies, boards, and commissions.

(b) Only §§ 2-351.02, 2-351.03, 2-351.04, and subchapters III, IV, V, VII, IX,

X, XI, and XII of this chapter shall apply to the Council. The duties of the CPO shall be exercised by the Council for the purposes of the application of those sections and subchapters to the Council. Notwithstanding § 2-352.01, the Mayor or the CPO shall not have the authority to monitor, review, or establish standards, procedures, regulations, or rules for contracts or procurements of the Council, unless authorized by the Council.

(c) This chapter, except for § 2-352.02, shall not apply to:

(1) The acquisition, disposition, or transfer of a real property asset or interest in a real property asset by lease, purchase, sale, or other method;

(2) A transaction pursuant to the subchapter I of Chapter 11 of Title 10 [§ 10-1101.01 et seq.];

(3) The District of Columbia Housing Finance Agency;

(4) The District of Columbia courts;

(5) The District Public Defender Service;

(6) The District of Columbia Advisory Neighborhood Commissions;

(7) The District of Columbia Water and Sewer Authority;

(8) Repealed.

(9) The Washington Convention and Sports Authority;

(10) The District of Columbia Auditor;

(11) The Not-for-Profit Hospital Corporation;

(12) A contract or agreement receiving or making grants or loans or for federal financial assistance;

(13) The procurement of services for the design, development, and construction of a facility on real property that has been disposed of pursuant to the authority in § 10-801; provided, that the construction of the facility is required by the Land Disposition Agreement, or similar agreement, governing the disposition of the real property;

(14) The District of Columbia Retirement Board;

(15) The procurement of services for the demolition of an existing facility and the design, development, and construction of a facility comprised of a fire station and office space for the Fire and Emergency Medical Services Department on real property located at Butternut Street and Georgia Avenue, N.W., at the Walter Reed Army Medical Center;

(16) The procurement of goods and services directly related to the production of permanent supportive housing units for which the District has obligated funding pursuant to an agreement between any combination of the following agencies:

(A) District of Columbia Department of Housing and Community Development;

(B) District of Columbia Housing Finance Agency;

(C) District of Columbia Housing Authority;

(D) Department of Human Services;

(E) Department of Behavioral Health; and

(F) Any other agency that has entered into an agreement with any of the agencies listed in subparagraphs (A) through (E) of this paragraph directly related to the production of permanent supportive housing;

(17) District of Columbia Health Benefit Exchange Authority; and

(18) Captive Insurance Agency.

(Apr. 8, 2011, D.C. Law 18-371, § 105, 58 DCR 1185; Sept. 14, 2011, D.C. Law 19-21, § 1032(c), 58 DCR 6226; Dec. 2, 2011, D.C. Law 19-50, § 2, 58 DCR 8947; Sept. 26, 2012, D.C. Law 19-171, § 15(a), 59 DCR 6190; Mar. 14, 2014, D.C. Law 20-94, § 2(a), 61 DCR 963.)

Section references. — This section is referenced in § 2-352.01, § 2-360.03, § 38-1202.06, § 39-105, and § 50-921.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (c)(13).

The 2014 amendment by D.C. Law 20-94, § 2(a)(1), substituted "This chapter, except for § 2-352.02" for "This chapter" in the introductory language of (c).

The 2014 amendment by D.C. Law 20-94, § 2(a)(2)-(4), added (c)(16) through (c)(18) and made related changes.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2 of the Permanent Supportive Housing Application Streamlining Temporary Amendment Act of 2013 (D.C. Law 20-6, June 22, 2013, 60 DCR 6388, 20 DCSTAT 1274).

For temporary (225 days) amendment of this section, see § 3 of the Health Benefit Exchange Authority Establishment Temporary Amendment Act of 2013 (D.C. Law 20-11, July 13, 2013, 60 DCR 7236, 20 DCSTAT 1757).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2 of the Permanent Supportive Housing Application Streamlining Emergency Act of 2013 (D.C. Act 20-43, March 26, 2013, 60 DCR 5379, 20 DCSTAT 544).

For temporary (90 days) amendment of this section, see § 3 of the Health Benefit Exchange Authority Establishment Emergency Amendment Act of 2013 (D.C. Act 20-49, April 15, 2013, 60 DCR 6337, 20 DCSTAT 1355).

For temporary (90 days) amendment of this section, see § 3 of the Health Benefit Exchange Authority Establishment Congressional Review Emergency Act of 2013 (D.C. Act 20-125, July 26, 2013, 60 DCR 11136, 20 DCSTAT 1821).

For temporary (90 days) amendment of this section, see § 2(a) of the Procurement Practices Reform Exemption Emergency Amendment Act of 2014 (D.C. Act 20-282, February 20, 2014, 61 DCR 1576).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Legislative history of Law 20-94. — Law 20-94, the "Procurement Practices Reform Exemption Amendment Act of 2014," was introduced in Council and assigned Bill No. 20-152. The Bill was adopted on first and second readings on December 3, 2013, and January 7, 2014, respectively. Signed by the Mayor on January 23, 2014, it was assigned Act No. 20-271 and transmitted to Congress for its review. D.C. Law 20-94 became effective on March 14, 2014.

Expiration of Law 20-94. — The second Section 3 of D.C. Law 20-94 provided that §§ 2(a)(2), (3), and (4) and 3(a) of the act shall expire at the end of fiscal year 2018 [September 30, 2019].

Subchapter II. Procurement Organization.

§ 2-352.01. Office of Contracting and Procurement; authority.

(a)(1) There is established as an independent agency the Office of Contracting and Procurement, which shall be administered by the Chief Procurement Officer. Except as otherwise provided in this chapter, OCP, through the CPO, shall have the exclusive authority to administer the provisions of this chapter.

(2) Repealed.

(3) Notwithstanding paragraph (1) of this subsection, until October 1, 2015, the following agencies, through their chief procurement officers, shall exercise the duties of the CPO for their respective agencies:

(A) The Department of Disability Services; and

(B) The Department of Behavioral Health, if a court order no longer requires the agency to be exempt from the CPO's authority.

(4) The CPO may delegate contracting authority to employees of an agency, including OCP, or another instrumentality.

(5) Agencies and instrumentalities subject to this chapter shall determine their requirements for goods and services and administering awarded contracts.

(b) Notwithstanding subsection (a) of this section, the following agencies shall not be subject to the authority of the CPO, but shall conduct procurements in accordance with the provisions of this chapter:

(1) The Office of the Chief Financial Officer;

(1A) The Tax Revision Commission, pursuant to § 2-354.07;

(2) The University of the District of Columbia;

(3) The District of Columbia Housing Authority;

(4) The District of Columbia Public Library;

(5) The District of Columbia Public Schools;

(6) The Child and Family Services Agency, until such time as a court order no longer requires the agency to be exempt from the CPO's authority;

(7) Repealed;

(8) The Public Service Commission;

(9) The Office of the People's Counsel;

(10) The Criminal Justice Coordinating Council; and

(11) The Department of General Services.

(c) The Office of the Attorney General and the Inspector General may contract for the services of accountants, lawyers, and other experts when they determine and state in writing that good reason exists why the services should be procured independently of the Chief Procurement Officer.

(d) Except regarding agencies exempted in §§ 2-351.05(c) and 2-352.01(b) and roads and bridges, the Department of Real Estate Services shall have procurement authority for construction and related services under subchapter VI of this chapter.

(e) Except as otherwise provided in § 2-351.05(b), the CPO may review and monitor procurements by any agency, instrumentality, employee, or official exempt under this chapter or authorized to procure independently of OCP.

(f) The CPO may conduct procurements and award contracts on behalf of any agency exempt under this chapter or authorized to procure independently of OCP, when requested by the agency to do so. In conducting procurements or awarding contracts, the CPO shall comply with the requirements of this chapter.

(Apr. 8, 2011, D.C. Law 18-371, § 201, 58 DCR 1185; Sept. 14, 2011, D.C. Law 19-21, § 1032(d), 58 DCR 6226; Dec. 24, 2013, D.C. Law 20-61, § 7143(a), 60 DCR 12472; Mar. 14, 2014, D.C. Law 20-94, § 2(b), 61 DCR 963.)

Section references. — This section is referenced in § 2-351.04, § 2-351.05, § 2-354.11, § 2-1594, § 4-1303.03, § 7-1131.04, § 7-3005.01, § 22-4235, and § 31-3171.04.

Effect of amendments.

The 2013 amendment by D.C. Law 20-61 added (b)(1A).

The 2014 amendment by D.C. Law 20-94

repealed (a)(2) and (b)(7); and substituted "Behavioral" for "Mental" in (a)(3)(B).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 3(a) of the Tax Revision Commission Report Extension and Procurement Streamlining Temporary Amendment Act of 2013 (D.C. Law 20-5, May 18, 2013, 60 DCR 4667, 20 DCSTAT 1272).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 3(a) of the Tax Revision Commission Report Extension and Procurement Streamlining Emergency Act of 2013 (D.C. Act 20-19, March 1, 2013, 60 DCR 3974, 20 DCSTAT 476).

For temporary (90 days) amendment of this section, see § 3(a) of the Tax Revision Commission Report Extension and Procurement Streamlining Congressional Review Emergency Act of 2013 (D.C. Act 20-67, May 15, 2013, 60 DCR 7232, 20 DCSTAT 1417).

For temporary (90 days) amendment of this section, see § 7143(a) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 7143(a) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Legislative history of Law 20-94. — Law 20-94, the "Procurement Practices Reform Exemption Amendment Act of 2014," was introduced in Council and assigned Bill No. 20-152. The Bill was adopted on first and second readings on December 3, 2013, and January 7, 2014, respectively. Signed by the Mayor on January 23, 2014, it was assigned Act No. 20-271 and transmitted to Congress for its review. D.C. Law 20-94 became effective on March 14, 2014.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Short title. — Section 7141 of D.C. Law 20-61 provided that Subtitle N of Title VII of the act may be cited as the "Tax Revision Commission Extension and Procurement Streamlining Amendment Act of 2013".

§ 2-352.06. Procurement training institute.

(a) The CPO shall establish and administer a procurement training institute to facilitate a system of training, continuing education, and certification for District contracting personnel. The procurement training institute may:

(1) Conduct or participate in procurement education and training programs for District employees and others, including persons not employed by the District;

(2) Conduct, develop, or collaborate with established training or certification programs for the express purpose of providing certifications of proficiency to all participants who successfully complete the designated programs;

(3) Conduct research into existing and new methods of procurement;

(4) Establish and maintain a District procurement library; and

(A) Establish a tiered core curriculum that sets forth the minimum procurement-related training courses to be completed by District procurement personnel.

(B) The tiered core curriculum shall be designed to develop procurement competency along with a uniform training approach for personnel ranging from entry level contract specialist to contracting officer.

(b) The CPO may charge a fee for training conducted by the procurement training institute in accordance with § 2-361.03.

(c) The CPO shall require that District contracting personnel be certified and that they maintain a reasonable number of hours of continuing education to maintain their certification.

(d) The CPO may allow attendance at a recognized institute to satisfy the certification requirement and the number of hours for continuing education.

(Apr. 8, 2011, D.C. Law 18-371, § 206, 58 DCR 1185.)

Cross references. — As to applicability of §§ 2-352.06, 2-358.03, and 2-361.01, see § 2-362.03.

Section references. — This section is referenced in § 2-361.03.

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Editor's notes.

Section 7015 of D.C. Law 20-61 repealed D.C. Law 18-371, § 1203.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Subchapter IV. Source Selection and Contract Formation.

§ 2-354.07. Small purchase procurements.

(a) The CPO may establish a streamlined process for entering into contracts for goods and services not exceeding $100,000. The process shall set forth:

(1) Requirements for basic competition, including solicitation of contracts or orders from multiple vendors;

(2) A noncompetitive process for entering into contracts under a dollar threshold established by the CPO not to exceed $10,000; and

(3) Requirements that purchases be made transparent.

(a-1) The Tax Revision Commission may establish a streamlined noncompetitive process for entering into contracts for goods and services not exceeding $40,000.

(b) Procurement requirements shall not be parceled, split, divided, or purchased over a period of time to avoid the $100,000 limitation of subsection (a) of this section or the $40,000 limitation of subsection (a-1) of this section.

(c) The CPO shall implement standards to monitor small purchase procedures to ensure compliance with applicable laws, rules, and policies.

(Apr. 8, 2011, D.C. Law 18-371, § 407, 58 DCR 1185; Dec. 24, 2013, D.C. Law 20-61, § 7143(b), 60 DCR 12472.)

Section references. — This section is referenced in § 2-352.01, § 2-354.01, and § 2-356.02.

Effect of amendments. — The 2013 amendment by D.C. Law 20-61 added (a-1); and added "or the $40,000 limitation of subsection (a-1) of this section" in (b).

Temporary legislation. — For temporary (225 days) amendment of this section, see § 3(b) of the Tax Revision Commission Report Extension and Procurement Streamlining Temporary Amendment Act of 2013 (D.C. Law 20-5, May 18, 2013, 60 DCR 4667, 20 DCSTAT 1272).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 3(b) of the Tax Revision Commission Report Extension and Procurement Streamlining Emergency Act of 2013 (D.C. Act 20-19, March 1, 2013, 60 DCR 3974, 20 DCSTAT 476).

For temporary (90 days) amendment of this section, see § 3(b) of the Tax Revision Commission Report Extension and Procurement Streamlining Congressional Review Emergency Act of 2013 (D.C. Act 20-67, May 15, 2013, 60 DCR 7232, 20 DCSTAT 1417).

For temporary (90 days) amendment of this section, see § 7143(b) of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of this section, see § 7143(b) of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — See note to 2-352.01.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Short title. — Section 7141 of D.C. Law 20-61 provided that Subtitle N of Title VII of the act may be cited as the "Tax Revision Commission Extension and Procurement Streamlining Amendment Act of 2013".

Subchapter VIII. Supply Management.

§ 2-358.03. Electronic Inventory Control System.

The CPO shall establish an Electronic Inventory Control System to monitor surplus goods. The Electronic Inventory Control System shall contain the following information:

(1) The date of receipt of goods;

(2) The agency from which goods were received;

(3) A description of the property, including quantity and condition;

(4) A photograph of the property; and

(5) The estimated value of the property.

(Apr. 8, 2011, D.C. Law 18-371, § 803, 58 DCR 1185.)

Cross references. — As to applicability of §§ 2-352.06, 2-358.03, and 2-361.01, see § 2-362.03.

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Editor's notes.

Section 7015 of D.C. Law 20-61 repealed D.C. Law 18-371, § 1203.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Subchapter IX. Prohibited Actions; Remedies.

§ 2-359.07. Debarment and suspension.

(a)(1) After reasonable notice to a person, and reasonable opportunity to be heard:

(A) The CPO shall debar a person from consideration for award of contracts or subcontracts for any conviction under subsection (c)(1) through (3) of this section, for a judicial determination of a violation under subsection (c)(4) of this section, or for a CPO determination of a violation under subsection (c)(5) through (7) of this section, unless the CPO makes a finding in writing that it would be contrary to the best interests of the District to do so or the present responsibility of the person is such that a debarment would not be warranted; and

(B) The CPO may debar a person from consideration for award of contracts or subcontracts if one or more of the causes listed in subsection (b) of this section exist.

(2) The debarment shall not be for a period of more than 5 years.

(b)(1) The CPO shall suspend a person from consideration for award of contracts or subcontracts for any conviction listed in subsection (c)(1) through (3) of this section, for a judicial determination of a violation under subsection (c)(4) or (5) of this section, or for a CPO determination of a violation under subsection (c)(5) through (7) of this section, unless the CPO makes a finding in writing that it would be contrary to the best interests of the District to do so.

(2) The CPO may suspend a person from consideration for award of contracts or subcontracts if the person is charged with the commission of any offense described in subsection (c) of this section and if the CPO makes a finding in writing that such suspension would be in the best interests of the District unless the present responsibility of the person is such that a suspension would not be warranted.

(c) Causes for debarment or suspension include the following:

(1) Conviction for the commission of a criminal offense incident to obtaining, or attempting to obtain, a public or private contract or subcontract or in the performance of the contract or subcontract;

(2) Conviction under this chapter or under any other District, federal, or state law for fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity which currently affects the contractor's responsibility as a District government contractor;

(3) Conviction under District, federal, or state antitrust laws arising out of the submission of bids or proposals;

(4) A violation under subchapter I of Chapter 3B of this chapter [§ § 2-381.01 through 2-381.09];

(5) A false assertion of certified business enterprise status or eligibility as defined in subchapter IX-A of Chapter 2 of this title [§ 2-218.01 et seq.];

(6) A violation of contract provisions, as set forth below, of a character which is regarded by the CPO to be sufficiently serious to justify debarment action:

(A) Willful failure, without good cause, to perform in accordance with the specifications or within the time limit provided in the contract; or

(B) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms or conditions of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be bases for debarment;

(6A) A violation of subchapter II of Chapter 13 of Title 32 [§ 32-1331.01 et seq.];

(7) Any other cause the CPO determines to be sufficiently serious and compelling to affect responsibility as a District government contractor, including debarment by another governmental entity for any cause listed in rules; or

(8) Submission of a bid or proposal to contract with an agency or office of the District by a person debarred or suspended pursuant to a conviction under subsection (c)(1), (2), or (3) of this section, unless the CPO has provided in the submission a written statement to the Chairman of the Council of the

compelling reasons to consider the bid or proposal. A second debarment resulting from the submission of a bid or proposal by a debarred person shall result in a permanent debarment pursuant to subsection (k) of this section.

(d)(1) After reasonable notice to a person and reasonable opportunity to be heard, the CPO may debar the person from consideration for award of any contract or subcontract if the CPO receives written notification from the Chairman of the Council or the chairperson of a Council committee that the person has willfully failed to cooperate in a Council or Council committee investigation conducted pursuant to § 1-204.13.

(2) The debarment shall be for a period of 5 years, unless the CPO receives written notification during the 5-year period from the Chairman of the Council or the chairperson of a Council committee that the debarred business has cooperated in the investigation referred to in paragraph (1) of this subsection.

(3) For purpose of this subsection, the term "willfully failed to cooperate" means:

(A) Intentionally failed to attend and give testimony at a public hearing convened in accordance with the Rules of Organization and Procedure for the Council; and

(B) Intentionally failed to provide documents, books, papers, or other information upon request of the Council or a Council committee.

(e) The CPO shall issue a written decision to debar or suspend a person. The decision shall:

(1) State the relevant facts and the reasons for the action taken;

(2) Describe the present responsibility of the person;

(3) Describe whether the debarment is in the best interests of the District; and

(4) Inform the debarred or suspended person of the right to judicial or administrative review as provided in this chapter.

(f) A copy of the decision pursuant to subsection (e) of this section shall be final and conclusive unless fraudulent or unless the debarred or suspended person appeals to the Contract Appeals Board within 60 days of receipt of the CPO's decision by the person.

(g) The filing of an action pursuant to subsection (f) of this section shall not stay the CPO's decision.

(h)(1) Unless otherwise indicated in the debarment or suspension decision, the debarment or suspension of a person shall be effective for all District government agencies.

(2) Unless otherwise indicated in the debarment or suspension decision, the debarment or suspension of a person shall constitute a debarment or suspension of any affiliate of that person.

(i) If a person is charged with or convicted of committing any offense listed in subsection (c)(1) through (5) of this section, the Office of the Attorney General for the District of Columbia or the United States Attorney, whoever is responsible for prosecuting the charge, shall immediately notify the CPO of the charge or conviction and shall provide such information to the CPO as may otherwise be permitted by law to enable the CPO to take any action authorized by this section. The CPO, in turn, shall immediately notify both the Office of

the Attorney General for the District of Columbia and the United States Attorney of any action taken or finding made under this section.

(j)(1) The Office of Contracting and Procurement shall compile and maintain a list of persons who have been debarred or suspended in the District to be known as the "Excluded Parties List," which shall include:

(A) The name and phone number of the OCP official responsible for maintaining the list;

(B) The names and addresses of suspended and debarred persons;

(C) The name of the agency that instituted the suspension or debarment;

(D) The cause of the suspension or debarment; and

(E) The dates and terms of each suspension or debarment.

(2)(A) The Excluded Parties List shall be updated monthly and prominently published on the OCP's website.

(B) Copies of the Excluded Parties List shall be distributed electronically to District contracting officers and contract administrators on a monthly basis.

(C)(i) Bids or proposals received from a person named on the Excluded Parties List shall be rejected unless the CPO provides the person with a written statement before the bid or proposal is submitted stating the compelling reasons why the bid or proposal should be considered. The CPO's determination shall be appended to the bid or proposal submitted.

(ii) If the bid or proposal is awarded to the debarred or suspended person, the award, along with the CPO's determination, shall be prominently published on the OCP's website within 15 days of the issuance of the award and published in the District of Columbia Register as soon as is practicable.

(3) Immediately before the award of a contract, the contracting officer or administrator shall review the most recent version of the Excluded Parties List to ensure that persons being considered for the award are not named on the list. If a person being considered for the award appears on the Excluded Parties List, the contracting officer or administrator shall notify the person in writing that the person's bid or proposal shall be rejected unless the person provides a written statement from the CPO in accordance with sib-subparagraph (i) of this subparagraph within 15 days of receipt of the written notification.

(k) A person who has been debarred 2 times by the District shall be banned permanently from contracting with a District agency or office; provided, that the suspensions leading to debarment resulted from a violation, conviction, or judicial determination listed in subsection (b)(1) of this section but not a charge listed in subsection (b)(2) of this subsection. A permanent ban from contracting with the District bars a person from consideration for award of contracts or subcontracts permanently; provided, that 10 years after the person's debarment, the person may be eligible for reinstatement if the CPO provides written notification to the Chairman of the Council that the person's business practices have been reformed.

(Apr. 8, 2011, D.C. Law 18-371, § 907, 58 DCR 1185; Apr. 27, 2013, D.C. Law 19-298, § 2, 60 DCR 2631; Apr. 27, 2013, D.C. Law 19-300, § 3, 60 DCR 2679.)

Section references. — This section is referenced in § 2-353.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-298 deleted "or" from the end of (c)(5) and (c)(6)(B); added "or" to the end of (c)(7); added (c)(8); and added (j) and (k).

The 2013 amendment by D.C. Law 19-300 deleted "or" from the end of (c)(6); and added (c)(6A).

Legislative history of Law 19-298. — Law 19-298, the "Bad Actor Debarment and Suspension Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-701. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Returned without signature from the Mayor on Feb. 5, 2013, it was assigned Act No. 19-666 and transmitted to Congress for its review. D.C. Law 19-298 became effective on Apr. 27, 2013.

Legislative history of Law 19-300 — Law 19-300, the "Workplace Fraud Amendment Act of 2012, " was introduced in Council and assigned Bill No. 19-169, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Returned without the Mayor's signature on Feb. 11, 2013, it was assigned Act No. 19-668 and transmitted to both Houses of Congress for its review. D.C. Law 19-300 became effective on Apr. 27, 2013.

Subchapter XI. Miscellaneous Provisions.

§ 2-361.01. Green procurement.

(a) Except for emergency procurements, before entering into any contract in excess of $ 100,000, the District shall issue an environmental certification to demonstrate, to the maximum extent practicable, the purchase of an EPPS.

(b) An environmental certification shall not be required for procurements that conform to an applicable Default Environmental Preference Standard.

(c) The requirement shall be satisfied if a District solicitation included a requirement that a contractor provide an EPPS.

(d) Within one year after December 24, 2013, and annually thereafter, OCP shall prepare and submit to the Council a report detailing the progress of this policy, including the following elements:

(1) Total contracting amount, and percentage of contracting amount, spent on EPPS;

(2) Successes and challenges to implementing the policy; and

(3) Changes to policies or standards.

(Apr. 8, 2011, D.C. Law 18-371, § 1101, 58 DCR 1185.)

Cross references. — As to applicability of §§ 2-352.06, 2-358.03, and 2-361.01, see § 2-362.03.

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Editor's notes.

Section 7015 of D.C. Law 20-61 repealed D.C. Law 18-371, § 1203.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

§ 2-361.03. Supply schedule, purchase card, and training funds.

(a) The CPO may charge and collect a fee, in an amount to be determined by rule, on all sales, purchase orders, delivery orders, task orders, and purchase

card transactions made under contracts awarded to contractors under the DCSS.

(b) The CPO may charge a fee for training conducted by the procurement training institute established pursuant to § 2-352.06.

(c) Subject to the terms of any memoranda of understanding with the Chief Financial Officer regarding adherence to the applicable requirements of federal grants, loans, or other extensions of credit to the District, the Chief Procurement Officer shall collect any rebates issued to the District by the purchase card issuers under the Purchase Card Program.

(d) All funds received pursuant to this section shall be deposited in the unrestricted fund balance of the General Fund of the District of Columbia.

(Apr. 8, 2011, D.C. Law 18-371, § 1103, 58 DCR 1185; Sept. 14, 2011, D.C. Law 19-21, § 9024, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 15(b), 59 DCR 6190.)

Section references. — This section is referenced in § 2-352.06 and § 2-354.11.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 rewrote the section heading, which formerly read: "District of Columbia Supply Schedule, Purchase Card, and Training Fund."

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter XII. Repealed Provisions; Transfers and Continuation.

§ 2-362.03. Applicability. [Repealed].

Repealed.

(Apr. 8, 2011, D.C. Law 18-371, § 1203, 58 DCR 1185; Dec. 24, 2013, D.C. Law 20-61, § 7015, 60 DCR 12472.)

Emergency legislation. — For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) repeal of D.C. Law 18-371, § 1203, see § 7015 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Legislative history of Law 20-61. — Law 20-61, the "Fiscal Year 2014 Budget Support Act of 2013," was introduced in Council and assigned Bill No. 20-199. The Bill was adopted on first and second readings on May 22, 2013, and June 26, 2013, respectively. Signed by the Mayor on Aug. 28, 2013, it was assigned Act No. 20-157 and transmitted to Congress for its review. D.C. Law 20-61 became effective on Dec. 24, 2013.

Editor's notes. — Applicability of D.C. Law 20-61: Section 11001 of D.C. Law 20-61 provided that, except as otherwise provided, the act shall apply as of October 1, 2013.

Short title. — Section 7001 of D.C. Law 20-61 provided that Subtitle A of Title VII of the act may be cited as the "Subject to Appropriations Repealers Amendment Act of 2013".

Chapter 3B. Other Procurement Matters.

Subchapter I. Procurement Related Claims

Sec.
2-381.01. Definitions.
2-381.02. False claims liability, treble damages, costs, and civil penalties; exceptions.
2-381.03. Investigations and prosecutions; powers of prosecuting authority; civil actions by individuals as qui tam plaintiffs; jurisdiction of courts.
2-381.04. Relief from retaliatory actions.
2-381.05. Limitation of actions; burden of proof.
2-381.07. Civil investigative demands.
2-381.08. Antifraud fund. [Repealed].
2-381.09. Penalties for false representations.
2-381.10. Civil penalty inflation adjustment.

Subchapter III. Year 2000 District Government Computer Liability Immunity

2-381.31. Immunity for Year 2000 system failures.

Subchapter IV. Miscellaneous

2-381.42. Privatization of Fleet Management Services in the Metropolitan Police Department.

Subchapter I. Procurement Related Claims.

§ 2-381.01. Definitions.

For the purposes of this subchapter, and unless otherwise defined, the term:

(1) "Claim" means:

(A) Any request or demand, whether under a contract or otherwise, for money or property, and whether or not the District has title to the money or property, that:

(i) Is presented to an officer, employee, or agent of the District; or

(ii) Is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the District's behalf or to advance a District program or interest, and if the District:

(I) Provides or has provided any portion of the money or property requested or demanded; or

(II) Will reimburse the contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(B) The term "claim" does not include requests or demands for money or property that the District has paid to an individual as compensation for District employment or as an income subsidy with no restrictions on that individual's use of the money or property.

(2) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General for the District of Columbia pursuant to § 2-381.07(j)(1).

(3) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery.

(4) "False claims law" means this subchapter.

(5) "False claims law investigation" means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law.

(6) "False claims law investigator" means any attorney or investigator employed by the Office of the Attorney General for the District of Columbia who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the District government acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation.

(7) "Knowing" or "knowingly" means:

(A) That a person, with respect to information, does any of the following:

(i) Has actual knowledge of the information;

(ii) Acts in deliberate ignorance of the truth or falsity of the information; or

(iii) Acts in reckless disregard of the truth or falsity of the information.

(B) The terms "knowing" and "knowingly" do not require proof of specific intent to defraud.

(8) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(9) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee- based or similar relationship, from statute or regulation, or from the retention of any overpayment.

(10) "Original source" means an individual who:

(A) Has voluntarily disclosed to the District, before a public disclosure under § 2-381.03(c-1)(1), the information on which allegations or transactions in a claim are based; or

(B) Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the District before filing an action under this section.

(11) "Person" includes any natural person, corporation, firm, association, organization, partnership, business, or trust.

(12) "Proceeds" means civil penalties as well as double or treble damages as provided in § 2-381.02, and criminal fines as provided in § 2-381.09.

(Feb. 21, 1996, D.C. Law 6-85, § 813, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g); Apr. 20, 1999, D.C. Law 12-264, § 10(a), 46 DCR 2118; Mar. 19, 2013, D.C. Law 19-232, § 2(a), 59 DCR 13632.)

Section references. — This section is referenced in § 2-308.13 and § 2-359.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-232 rewrote the section.

Legislative history of Law 19-232. — See note to Law 19-232, the "Medicaid Fraud Enforcement and Recovery Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-224. The Bill was adopted on first and second readings on Oct. 12, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Nov. 20, 2012, it was assigned Act No. 19-549 and transmitted to Congress for its review. D.C. Law 19-232 became effective on Mar. 19, 2013.

§ 2-381.02. False claims liability, treble damages, costs, and civil penalties; exceptions.

(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and shall be liable to the District for a civil penalty of not less than $5,500, and not more than $11,000, for each false or fraudulent claim for which the person:

(1) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(3) Has possession, custody, or control of property or money used, or to be used, by the District and knowingly delivers, or causes to be delivered, less than all of that money or property;

(4) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the District and, intending to defraud the District, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(5) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the District who lawfully may not sell or pledge property;

(6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District;

(7) Conspires to commit a violation of paragraph (1), (2), (3), (4), (5), or (6) of this subsection;

(8) Is a beneficiary of an inadvertent submission of a false or fraudulent claim to the District, subsequently discovers the falsity of the claim, and fails to disclose the false or fraudulent claim to the District; or

(9) Is the beneficiary of an inadvertent payment or overpayment by the District of monies not due and knowingly fails to repay the inadvertent payment or overpayment to the District.

(b) Notwithstanding subsection (a) of this section, the court may assess not more than two times the amount of damages which the District sustains because of the act of the person, and there shall be no civil penalty, if the court finds all of the following:

(1) The person committing the violation furnished officials of the District responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information;

(2) The person fully cooperated with any investigation by the District; and

(3) At the time the person furnished the District with information about the violation, no criminal prosecution, civil action, or administrative action

had commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(c) Liability pursuant to this section shall be joint and several for any act committed by 2 or more persons.

(d) This section shall not apply to claims, records, or statements made pursuant to those portions of Title 47 of the District of Columbia Official Code that refer or relate to taxation.

(Feb. 21, 1986, D.C. Law 6-85, § 814, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Mar. 19, 2013, D.C. Law 19-232, § 2(b), 59 DCR 13632.)

Section references. — This section is referenced in § 2-308.14, § 2-381.01, § 2-381.03, § 2-381.05, and § 2-381.10.

Effect of amendments. — The 2013 amendment by D.C. Law 19-232 rewrote (a) and (d).

Legislative history of Law 19-232. — See note to § 2-381.01.

CASE NOTES

Failure to state a claim.

As defendants were indeed statutorily exempt from recordation taxes under 12 U.S.C.S. § 1723a(c)(2), plaintiffs' qui tam action rested on a flawed premise; plaintiffs identified no false statements, nor any "obligation to pay" the District of Columbia that defendants failed to fulfill, D.C. Code § 2-381.02(a)(7). Hager v. Federal Nat. Mortg. Ass'n., — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 111709 (D.D.C. Aug. 9, 2012).

§ 2-381.03. Investigations and prosecutions; powers of prosecuting authority; civil actions by individuals as qui tam plaintiffs; jurisdiction of courts.

(a) The Attorney General for the District of Columbia shall investigate, with such assistance from other District agencies as may be required, violations pursuant to § 2-381.02 involving District funds. If the Attorney General for the District of Columbia finds that a person has violated or is violating the provisions of § 2-381.02, the Attorney General for the District of Columbia may bring a civil action against that person in the Superior Court of the District of Columbia.

(b)(1) A person may bring a civil action for a violation of § 2-381.02 for the person and for the District. The action shall be brought in the name of the District. The person bringing the action shall be referred to as the qui tam plaintiff. The action may be dismissed only if the court and the Attorney General for the District of Columbia give written consent to the dismissal and their reasons for consenting.

(2) A complaint filed by a qui tam plaintiff pursuant to this subsection shall be filed in the Superior Court in camera and may remain under seal for up to 180 days, unless the seal is extended by the court. No service shall be made on the defendant until after the complaint is unsealed.

(3) On the same day as the complaint is filed pursuant to paragraph (2) of this subsection, the qui tam plaintiff shall serve the Attorney General for the District of Columbia by mail, return receipt requested, with a copy of the

complaint and a written disclosure of substantially all material evidence and information the person possesses.

(4) Within 180 days after receiving a complaint alleging violations involving District funds, the Attorney General for the District of Columbia shall do either of the following:

(A) Notify the court that he or she intends to proceed with the action, in which case the seal may be lifted unless, for good cause shown, the court continues the seal; or

(B) Notify the court that he or she declines to take over the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.

(5) Upon a showing of good cause, the Attorney General for the District of Columbia may move the court for extensions of the time during which the complaint remains under seal.

(6) When a qui tam plaintiff brings an action pursuant to this subsection, no person other than the District may intervene or bring a related action based on the facts underlying the pending action.

(7) The District is not liable for expenses which a qui tam plaintiff incurs in bringing an action under this section.

(c)(1) No person may bring an action pursuant to subsection (b) of this section against a member of the Council of the District of Columbia, a member of the District judiciary, or an elected official in the executive branch of the District, if the action is based on evidence or information known to the District when the action was brought.

(2) No person may bring an action under subsection (b) of this section which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the District is already a party.

(c-1)(1) Except as provided in paragraph (2) of this subsection, a court shall dismiss an action or claim under this section if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

(A) In a criminal, civil, or administrative hearing in which the District or its agent is a party;

(B) In a report, hearing, audit, or investigation by the Council of the District of Columbia, the Auditor of the District of Columbia, the Inspector General of the District of Columbia, or other District agency; or

(C) By the news media.

(2) A court shall not dismiss an action or claim as provided in paragraph (1) of this subsection if:

(A) The action is brought by the Attorney General for the District of Columbia;

(B) The District is opposed to the dismissal; or

(C) The action is brought by a qui tam plaintiff and the qui tam plaintiff is an original source of the information.

(d)(1) If the District proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of

the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2) of this subsection.

(2)(A) The District may dismiss the action notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the District of the filing of the motion to dismiss and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.

(B) The District may settle the action with the defendant, notwithstanding the objections of the qui tam plaintiff, if the court determines, after a hearing providing the qui tam plaintiff an opportunity to be heard, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

(C) Upon a showing by the District that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the District's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the qui tam plaintiff's participation, such as:

(i) Limiting the number of witnesses the qui tam plaintiff may call;

(ii) Limiting the length of the testimony of such witnesses;

(iii) Limiting the qui tam plaintiff 's cross-examination of witnesses; or

(iv) Otherwise limiting the participation by the qui tam plaintiff in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the qui tam plaintiff would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may, in its discretion, limit the participation by the qui tam plaintiff.

(e)(1) If the District elects not to proceed and the qui tam action was proper pursuant to subsection (c) of this section, the qui tam plaintiff shall have the same right to conduct the action as the Attorney General for the District of Columbia would have had if he or she had chosen to proceed pursuant to subsection (b) of this section. If the District so requests, the District shall be served with copies of all pleadings filed in the action.

(2) When the qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may nevertheless permit the District to intervene at a later date upon a showing of good cause.

(f)(1)(A) If the District proceeds with an action brought by a qui tam plaintiff pursuant to subsection (b) of this section, the qui tam plaintiff, subject to subparagraph (B) of this paragraph, shall receive at least 15%, but not more than 25%, of the proceeds of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action.

(B) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a report, hearing, audit, or investigation conducted

by a District agency, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10% of the proceeds, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation.

(C) Any payment to a qui tam plaintiff under this paragraph shall be made from the proceeds of the judgment or the settlement of the claim. Any qui tam plaintiff receiving a payment under this paragraph shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2)(A) If the District does not proceed with an action brought by a qui tam plaintiff pursuant to subsection (b) of this section, the qui tam plaintiff shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages; provided, that the amount shall be not less than 25%, and not more than 30%, of the proceeds of the action or settlement of the claim.

(B) Any payment to a qui tam plaintiff under this paragraph shall be made from the proceeds of the judgment or the settlement of the claim. Any qui tam plaintiff receiving a payment under this paragraph shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) The portion of the recovery not distributed pursuant to paragraphs (1) and (2) of this subsection shall be paid to the District treasury.

(4)(A) Whether or not the District proceeds with the action, if the court finds that the action was brought by a qui tam plaintiff who planned and initiated the violation of § 2-381.02 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the qui tam plaintiff would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation.

(B) If the qui tam plaintiff is convicted of criminal conduct arising from his or her role in the violation of § 2-381.02, the qui tam plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the District to continue the action, represented by the Attorney General for the District of Columbia.

(5) If the District does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant reasonable attorneys fees and expenses necessarily incurred if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was frivolous, vexatious, or brought solely for purposes of harassment.

(6)(A) Notwithstanding subsection (b) of this section, the District may elect to pursue a violation of § 2-381.02 through any alternate remedy available to the District, including an administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in such proceeding

as such person would have had if the qui tam action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section.

(B) For the purposes of this paragraph, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(g)(1) Whether or not the District proceeds with the action, upon a showing by the District that certain actions of discovery by the qui tam plaintiff would interfere with the investigation or prosecution of a criminal or civil matter by the District or a criminal matter in the District of Columbia arising out of the same facts, the court may stay such discovery for a period of not more than 60 days.

(2) Upon a further showing that the District or the United States Attorney's Office for the District of Columbia has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the qui tam action will interfere with the ongoing criminal or civil investigation or proceedings, the court may extend the stay of discovery provided for in paragraph (1) of this subsection.

(3) Any showing provided for under this subsection shall be conducted in camera.

(Feb. 21, 1986, D.C. Law 6-85, § 815, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(b), 46 DCR 2118; Mar. 11, 2010, D.C. Law 18-117, § 4, 57 DCR 896; Sept. 14, 2011, D.C. Law 19-21, § 9004(a), 58; Mar. 19, 2013, D.C. Law 19-232, § 2(c), 59 DCR 13632.)

Section references. — This section is referenced in § 2-308.15, § 2-381.01, and § 2-381.05.

Effect of amendments.

The 2013 amendment by D.C. Law 19-232 rewrote the section.

Legislative history of Law 19-232. — See note to § 2-381.01.

§ 2-381.04. Relief from retaliatory actions.

(a) Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this subchapter or other efforts to stop one or more violations of this subchapter.

(b) The relief authorized under subsection (a) of this section shall include:

(1) Reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination;

(2) Two times the amount of back pay;

(3) Interest on the back pay; and

(4) Compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

(c) An action seeking relief under this section may be brought in the Superior Court of the District of Columbia; provided, that a civil action seeking relief under this section may not be brought more than 3 years after the date when the retaliation occurred.

(Feb. 21, 1986, D.C. Law 6-85, § 816, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(c), 46DCR 2118; Sept. 26, 2012, D.C. Law 19-171, § 98(a), 59 DCR 6190; Mar. 19, 2013, D.C. Law 19-232, § 2(d), 59 DCR 13632.)

Section references. — This section is referenced in § 2-308.16.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 amended D.C. Law 19-21, § 9004(b) to repeal D.C. Law 6-85, § 820 instead of D.C. Law 6-85, § 816.

The 2013 amendment by D.C. Law 19-232 rewrote the section.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Legislative history of Law 19-232. — See note to § 2-381.01.

§ 2-381.05. Limitation of actions; burden of proof.

(a) A civil action brought pursuant to § 2-381.03 may not be brought:

(1) More than 6 years after the date on which the violation of § 2-381.02 is committed; or

(2) More than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the District charged with the responsibility to act in those circumstances, but in no event more than 10 years after the date on which the violation of § 2-381.02 is committed, whichever occurs last.

(b) A civil action brought pursuant to § 2-381.03 may not be brought for activity prior to April 12, 1997.

(c) In any action brought pursuant to § 2-381.03, the District or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, a judgment of guilt in a criminal proceeding charging false statements or fraud, upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action brought pursuant to § 2-308.15 which involves the same transaction as in the criminal proceeding.

(e)(1) If the District elects to intervene and proceed with an action brought under § 2-381.03, the District may file its own complaint or amend the complaint of a qui tam plaintiff who has brought an action under § 2-381.03(b) to clarify or add detail to the claims in which the District is intervening and to add any additional claims with respect to which the District contends it is entitled to relief.

(2) Any District pleading as provided for in this subsection shall relate

back to the filing date of the complaint of the qui tam plaintiff who originally brought the action, and thereby comply with the statute of limitations as provided for in this subchapter, to the extent that the claim of the District arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of the qui tam plaintiff.

(Feb. 21, 1986, D.C. Law 6-85, § 817, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(d), 46 DCR 2118; Mar. 19, 2013, D.C. Law 19-232, § 2(e), 59 DCR 13632.)

Section references. — This section is referenced in § 2-308.17.

Effect of amendments. — The 2013 amendment by D.C. Law 19-232 rewrote (a); and added (e).

Legislative history of Law 19-232. — See note to § 2-381.01.

§ 2-381.07. Civil investigative demands.

(a)(1) Whenever the Attorney General for the District of Columbia has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General for the District of Columbia may, in order to determine whether to commence a civil proceeding pursuant to this chapter, issue in writing and cause to be served upon such person a civil investigative demand requiring that such person do the following:

(A) Produce documentary material relevant to the false claims law investigation for inspection and copying;

(B) Answer in writing written interrogatories with respect to any documentary material or information relevant to the false claims law investigation;

(C) Provide oral testimony concerning any documentary material or information relevant to the false claims law investigation; or

(D) Furnish any combination of such material, answers, or testimony.

(2) The Attorney General for the District of Columbia may delegate to the Principal Deputy Attorney General for the District of Columbia the authority, in his or her absence, to issue civil investigative demands pursuant to paragraph (1) of this subsection. The Attorney General for the District of Columbia may not issue a civil investigative demand in order to conduct, or assist in the conducting of, a criminal investigation.

(b)(1) Each civil investigative demand issued pursuant to subsection (a)(1) of this section shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to have been violated.

(2) If such demand is for the production of documentary material, the demand shall do the following:

(A) Describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

(B) Prescribe a return date for each such class that will provide a

reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(C) Identify the false claims law investigator to whom such material shall be made available.

(3) If such demand is for answers to written interrogatories, the demand shall do the following:

(A) Set forth with specificity the written interrogatories to be answered;

(B) Prescribe dates at which time answers to written interrogatories shall be submitted; and

(C) Identify the false claims law investigator to whom such answers shall be submitted.

(4) If such demand is for the giving of oral testimony, the demand shall do the following:

(A) Prescribe the date, time, and place at which oral testimony shall commence;

(B) Identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

(C) Specify that such attendance and testimony are necessary to conduct the investigation;

(D) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(E) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(5) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand shall be a date that is not less than 7 days after the date on which the demand is received, unless the Attorney General for the District of Columbia determines that exceptional circumstances are present that warrant the commencement of such testimony within a shorter period of time.

(6) The Attorney General for the District of Columbia shall not authorize, pursuant to subsection (a)(1) of this section, issuance of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General for the District of Columbia, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(c) A civil investigative demand may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under:

(1) The standards applicable to subpoenas or subpoenas duces tecum issued by a court of the District of Columbia to aid in a grand jury investigation; or

(2) The standards applicable to discovery requests pursuant to the Superior Court Civil Rules to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(d)(1) Any civil investigative demand issued pursuant to subsection (a) of this section may be served by a false claims law investigator or his or her agent, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States; provided, that the Superior Court of the District of Columbia could exercise jurisdiction over the recipient of the demand consistent with the due process clause of the Constitution of the United States.

(2) Any such demand or any petition filed pursuant to subsection (a) of this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Superior Court Civil Rules prescribe for service in a foreign country; provided, that the Superior Court of the District of Columbia could exercise jurisdiction over the recipient of the demand consistent with the due process clause of the Constitution of the United States.

(e)(1) Service of any civil investigative demand issued pursuant to subsection (a) of this section, or of any petition filed pursuant to subsection (a) of this section, may be made upon a partnership, corporation, association, or other legal entity by the following methods:

(A) Delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(B) Delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(C) Depositing an executed copy of such demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(2) Service of any such demand or petition may be made upon any natural person by the following methods:

(A) Delivering an executed copy of such demand or petition to the person; or

(B) Depositing an executed copy of such demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(f) A verified return by the individual serving any civil investigative demand or any petition filed pursuant to subsection (a) of this section setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(g)(1) The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the following:

(A) In the case of a natural person, by the person to whom the demand is directed; or

(B) In the case of a person other than a natural person, by a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

(2) The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand.

(3) Any person upon whom any civil investigative demand for the production of documentary material has been served shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct pursuant to subsection (j)(1) of this section. Such material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

(h)(1) Each interrogatory in a civil investigative demand shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, as follows:

(A) In the case of a natural person, by the person to whom the demand is directed, or

(B) In the case of a person other than a natural person, by the person or persons responsible for answering each interrogatory.

(2) If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(i)(1) The examination of any person, pursuant to a civil investigative demand for oral testimony, shall be conducted before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is taken shall put the witness under oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken by any means authorized by, and in a manner consistent with, the Superior Court Civil Rules, and shall be transcribed.

(2) The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney or other representative of the person giving the testimony, the attorney for the District government, any person who may be agreed upon by the attorney for the District government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(3) The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

(4) When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by an attorney, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance that the witness desires shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

(5) The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness. The officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(6) Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General for the District of Columbia may, for good cause, limit such witness to inspection of the official transcript of the witness's testimony.

(7) Any person compelled to appear for oral testimony pursuant to a civil investigative demand may be accompanied, represented, and advised by an attorney. The attorney may advise such person, in confidence, with respect to any question asked of such person. Such person or attorney may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record only when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not, directly or through the person's attorney, otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the Superior Court of the District of Columbia pursuant to subsection (d)(1) of this section for an order compelling such person to answer the question.

(8) Any person appearing for oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and allowances that are paid to witnesses in the Superior Court of the District of Columbia.

(j)(1) The Attorney General for the District of Columbia shall designate a false claims law investigator to serve as custodian of documentary material,

answers to interrogatories, and transcripts of oral testimony received pursuant to this section, and shall designate such additional false claims law investigators as the Attorney General for the District of Columbia determines from time to time to be necessary to serve as deputies to the custodian.

(2)(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony pursuant to this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material pursuant to paragraph (4) of this subsection.

(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or any other officer or employee of the Office of the Attorney General for the District of Columbia who is authorized for such use by the Attorney General for the District of Columbia. Such material, answers, and transcripts may be used by any authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony pursuant to this section.

(C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or officer or employee of the Office of the Attorney General for the District of Columbia authorized pursuant to subparagraph (B) of this paragraph; provided that nothing in this subparagraph is intended to prevent:

(i) The availability of material, answers, or transcripts if consent is given by the person who produced such material, answers, or transcripts;

(ii) Disclosure to the Council, including any committee of the Council;

(iii) Disclosure to the United States Attorney's Office;

(iv) Disclosure to any other federal or state agency for use by such agency in furtherance of its statutory responsibilities; provided, that disclosure of information to any agency other than the Council or the United States Attorney's Office shall be allowed only upon application, made by the Attorney General for the District of Columbia to the Superior Court of the District of Columbia, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities and after giving the individuals who provided the information an opportunity to be heard on the release of the information; or

(v) Disclosure to any federal or state agency in connection with a joint case or investigation with the Office of the Attorney General for the District of Columbia provided that before disclosure, an official of the receiving agency agrees in writing to abide by the disclosure restrictions of this paragraph.

(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General for the District of Columbia shall prescribe, the following shall apply:

(i) Documentary material and answers to interrogatories shall be available for examination by the person who produced such material or

answers, or by a representative of that person authorized by that person to examine such material and answers; and

(ii) Transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

(3) Whenever any attorney of the Office of the Attorney General for the District of Columbia is conducting any official investigation or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received pursuant to this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such investigation or proceeding as such attorney determines to be required. Upon the completion of any such investigation or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered that have not passed into the control of any court or agency through introduction into the record of any case or proceeding.

(4) If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand, and any case or proceeding before a court arising out of such investigation, or any proceeding before any District government agency involving such material, has been completed, or no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator pursuant to subsection (g)(2) of this section or made for the Office of the Attorney General for the District of Columbia pursuant to paragraph (2)(B) of this subsection), which has not passed into the control of any court or agency through introduction into the record of such case or proceeding.

(5)(A) In the event of the death, disability, or separation from service in the Office of the Attorney General for the District of Columbia of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand issued pursuant to this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General for the District of Columbia shall promptly do the following:

(i) Designate another false claims law investigator to serve as custodian of such material, answers, or transcripts; and

(ii) Transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

(B) Any person who is designated to be a successor pursuant to this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction that occurred before that designation.

(k)(1) Whenever any person fails to comply with any civil investigative demand, or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General for the District of Columbia may file in the Superior Court of the District of Columbia and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

(2)(A) Any person who receives a civil investigative demand may file in the Superior Court of the District of Columbia and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. Any petition issued pursuant to this subparagraph must be filed:

(i) Within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or

(ii) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief pursuant to subparagraph (A) of this paragraph, and may be based upon any failure of the demand, or any particular portion thereof, to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(3) At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand, such person may file in the Superior Court of the District of Columbia and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

(4) Whenever any petition is filed in the Superior Court of the District of Columbia, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal. Any disobedience of any final order entered pursuant to this section by any court shall be punished as contempt of court.

(5) The Superior Court Civil Rules shall apply to any petition issued pursuant to this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

(l) Any documentary material, answers to written interrogatories, or oral testimony provided pursuant to any civil investigative demand issued pursuant to subsection (a) of this section shall be exempt from disclosure pursuant to subchapter II of Chapter 5 of this title.

(m) For the purposes of this section, the term "person" means any natural

person, partnership, corporation, association, or other legal entity, including any state or political subdivision of a state.

(Feb. 21, 1986, D.C. Act 6-85, § 819, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(e), 46 DCR 2118; Apr. 12, 2000, D.C. Law 13-91, § 122, 47 DCR 520; Mar. 19, 2013, D.C. Law 19-232, § 2(f), 59 DCR 13632.)

Section references. — This section is referenced in § 2-308.19 and § 2-381.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-232 substituted "Attorney General for the District of Columbia" for "Corporation Counsel" throughout the section; rewrote (j)(2)(C); and rewrote (m).

Legislative history of Law 19-232. — See note to § 2-381.01.

§ 2-381.08. Antifraud fund. [Repealed].

Repealed.

(Feb. 21, 1986, D.C. Law 6-85, § 820, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Sept. 14, 2011, D.C. Law 19-21, §§ 1062, 9004(b), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 98(a), 59 DCR 6190.)

Section references. — This section is referenced in § 2-308.20.

Legislative history of Law 19-171. — See note to § 2-381.04.

Editor's notes. — Section 98(a) of D.C. Law 19-171 amended D.C. Law 19-21, § 9004(b) to repeal D.C. Law 6-85, § 820 instead of D.C. Law 6-85, § 816.

§ 2-381.09. Penalties for false representations.

Whoever makes or presents to any officer or employee of the District of Columbia government, or to any department or agency thereof, any claim upon or against the District of Columbia, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than one year and assessed a fine of not more than $100,000 for each violation of this chapter. The Attorney General for the District of Columbia shall prosecute violations of this section. The fine set forth in this section shall not be limited by § 22-3571.01.

(Feb. 21, 1986, D.C. Law 6-85, § 821, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Mar. 19, 2013, D.C. Law 19-232, § 2(g), 59 DCR 13632; June 11, 2013, D.C. Law 19-317, § 112(a), 60 DCR 2064.)

Section references. — This section is referenced in § 2-308.21 and § 2-381.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-232 substituted "Attorney General for the District of Columbia" for "Corporation Counsel."

The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 112(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-232. — See note to § 2-381.01.

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 2-381.10. Civil penalty inflation adjustment.

The Attorney General for the District of Columbia is granted the authority to, at least once every 4 years, promulgate rules to adjust the amounts of the civil penalties listed in § 2-381.02 by the same amount that the Attorney General of the United States shall, from time to time, adjust the civil monetary penalties found in 31 U.S.C. § 3729 pursuant to the procedures described in the Federal Civil Penalties Inflation Adjustment Act of 1990, approved October 5, 1990 (104 Stat. 890; 28 U.S.C. § 2461, note). Any increase to a civil penalty as provided in this section shall only apply to violations which occur after the date the increase takes effect.

(Feb. 21, 1986, D.C. Law 6-85, § 822, as added Mar. 19, 2013, D.C. Law 19-232, § 2(h), 59 DCR 13632.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-232 added this section.

Legislative history of Law 19-232. — See note to § 2-381.01.

Subchapter III. Year 2000 District Government Computer Liability Immunity.

§ 2-381.31. Immunity for Year 2000 system failures.

(a) No cause of action at law or in equity, nor any administrative action shall be maintained against the District government or its officers or employees, arising from a Year 2000 system failure.

(b) No cause of action at law or in equity, nor any administrative action shall be maintained against a District government vendor, arising from a Year 2000 system failure caused primarily by the vendor's use of computer hardware, software, or equipment that is not Year 2000 complaint [compliant] and which is owned or provided by the District government, unless the action is maintained by the District government.

(c) All District government contracts executed after April 20, 1999 shall include a warranty of Year 2000 compliance for any goods or services provided pursuant to the contract, and shall state that the vendor is liable for any damages if the goods and services are not Year 2000 compliant.

(d) For the purposes of this subchapter:

(1) The term "Year 2000 compliance or compliant" means the capability of a computer software program, database, network, information system, computer device, or any equipment using microchips, to interpret, produce, generate, calculate, or to correctly account for a date in the year 2000 or in subsequent years.

(2) The term "Year 2000 system failure" means the failure of a computer software program, database, network, information system, computer device, or

any equipment using microchips, to interpret, produce, generate, calculate, or to correctly account for a date in the year 2000 or in subsequent years.

(Apr. 20, 1999, D.C. Law 12-244, § 2, 46 DCR 1080; Sept. 26, 2012, D.C. Law 19-171, § 205, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 deleted "Notwithstanding § 2-308.01" at the beginning of (a); and made a related change.

Legislative history of Law 19-171. — See note to § 2-381.04.

Subchapter IV. Miscellaneous.

§ 2-381.42. Privatization of Fleet Management Services in the Metropolitan Police Department.

(a) Notwithstanding § 2-352.05, the Mayor, in accordance with the provisions of this subchapter, is authorized to contract for the provision of services for the fleet management services for the Metropolitan Police Department.

(b) Prior to the award of the fleet management services contract referred to in subsection (a) of this section, the Mayor shall make a written determination and findings which will address the following factors:

(1) Over the duration of the contract, including any options, the District will either realize a projected cost savings or receive the services of an improved quality or quantity at the same or lower cost;

(2) There may be increased economic development in the District in terms of entrepreneurial opportunities for District businesses or employment opportunities for District residents;

(3) There may be strengthening of any existing District businesses or the creation of any new businesses in the District, or relocation of any businesses from outside to inside the District;

(4) The District can describe with reasonable precision its minimum acceptable performance standards;

(5) That cost, efficiency of operation, and quality and quantity can be measured with reasonable accuracy; and

(6) That contracting-out of the program will not adversely affect the delivery of services to District residents.

(c) The Mayor shall base the conclusion required by subsection (b)(1) of this section on a written cost/benefit analysis prepared by the Metropolitan Police Department. At a minimum, this analysis shall include one of the following comparisons:

(1) Over the duration of the contract, including options, the projected current total cost to the District government of performing the services in-house versus the projected total cost to the District government after the contracting-out, if quality and quantity of service remain substantially the same; or

(2) Over the duration of the contract, including options, the projected quality and quantity versus projected quality and quantity of service after the contracting-out, if total cost to the District government of services performed in-house remains substantially the same.

(d) The Mayor may issue rules which set forth standards for making the written cost/benefit analysis described in subsection (c) of this section, including rules that address the following:

(1) Cost factors to be considered in evaluating the total cost to the District government of operating the program if the service continues to be provided by the government, such as the cost of equipment, facilities, maintenance, personnel, and utilities;

(2) The cost factors to be considered in evaluating the total cost to the District government of contracting-out the program, such as the additional cost of improving any capital assets to be transferred to a contractor, the additional cost of any one-time severance of District employees, the additional cost of contract administration, the value of any improvement to District government programs resulting from privatizing the program, any income to the District government from the lease or sale of District government assets resulting from contracting-out the program, and any tax revenue to the District based on income earned by a contractor who performs the fleet management operations; and

(3) Methods to be used to identify and measure the quality and quantity of services so that accurate cost comparisons can be made between District government and private sector performance.

(e) A contract for privatizing the fleet management services referred to in subsection (a) of this section shall include a provision requiring that at least 51% of all new hires to perform the contract are bona fide District residents unless the Mayor certifies that qualified District residents are unavailable to fill the new positions.

(f) If not already required by a collective bargaining agreement, the Mayor shall make reasonable efforts to consult with union representatives concerning affected District government employees.

(g) Nothing in this section may be construed to create a private right enforceable by any person.

(Sept. 26, 1995, D.C. Law 11-52, § 701, 42 DCR 3684; Sept. 26, 2012, D.C. Law 19-171, § 206, 59 DCR 6190.)

Section references. — This section is referenced in § 2-325.02.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Notwithstanding § 2-352.05" for "Notwithstanding any provision of § 2-301.05b" in (a).

Legislative history of Law 19-171. — See note to § 2-381.04.

CHAPTER 5. ADMINISTRATIVE PROCEDURE.

Subchapter I. Administrative Procedure

Sec.
2-502. Definitions.

Subchapter III. Legal Publication

2-560. Certification.

Subchapter IV. Open Meetings

Sec.
2-575. Open meetings.

Subchapter I. Administrative Procedure.

§ 2-501. Effect of subchapter.

Section references. — This section is referenced in § 1-301.79, § 1-307.06, § 1-325.02, § 1-325.164, § 1-325.191, § 1-327.73, § 1-328.05, § 1-608.01, § 1-621.13, § 1-623.24, § 1-1001.05, § 1-1021.02, § 1-1161.01, § 1-1162.09, § 1-1171.06, § 1-1201, § 1-1329, § 2-218.68, § 2-219.05, § 2-361.06, § 2-1210.12, § 2-1212.41, § 2-1401.02, § 2-1402.53, § 2-1403.01, § 2-1403.12, § 2-1535.09, § 2-1831.01, § 3-1207.58, § 3-1209.06, § 3-1209.07, § 4-202.05, § 4-756.02, § 4-1302.02, § 4-1302.06, § 4-1303.03, § 4-1303.72, § 4-1410, § 4-1451.08, § 4-1704.07, § 5-107.04, § 5-1501.15, § 6-1405.01, § 6-1451.04, § 6-1451.11, § 7-248, § 7-1007, § 7-1305.06b, § 7-1531.27, § 7-1551.32, § 7-1671.13, § 7-1721.03, § 7-2081.04, § 7-2306, § 7-2341.18, § 7-2341.23, § 7-2361.03, § 7-2361.07, § 7-2361.09, § 7-2502.10, § 7-2504.06, § 7-2505.03, § 7-2507.06, § 7-2507.09, § 7-2507.11, § 7-2508.06, § 7-2871.05, § 8-104.07, § 8-108.05, § 8-171.04, § 8-231.18, § 8-411, § 8-732, § 8-802, § 8-1058, § 8-1778.48, § 8-1825.09, § 8-2211, § 10-307, § 10-551.08, § 11-722, § 11-1525, § 22-2603.01, § 24-1304, § 28:6-109, § 28-4606, § 28-5210, § 31-634, § 31-3012, § 31-3162, § 31-3171.17, § 31-3311.09, § 31-5031.23, § 31-5041.11, § 31-5051.06, § 32-1331.06, § 32-1331.14, § 32-1367, § 32-1410, § 32-1522, § 34-1521, § 37-131.10, § 38-174, § 38-205, § 38-272.03, § 38-275.01, § 38-651.12, § 38-756.01, § 38-771.06, § 38-771.07, § 38-828.01, § 38-1011.05, § 38-2602, § 38-2673, § 42-815.02, § 42-1904.12, § 42-1904.16, § 42-2705.01, § 42-3131.06, § 42-3141.11, § 42-3402.05a, § 44-635, § 44-637, § 44-658, § 47-351.16, § 47-406, § 47-464, § 47-825.01a, § 47-1276, § 47-2832.02, § 47-2884.17, § 47-2886.09, § 47-2888.08, § 48-851.04, § 48-853.10, § 48-1213, § 50-307, § 50-310, § 50-320, § 50-921.02, § 50-921.76, § 50-1301.04, § 50-1401.05, § 50-1403.01, § 50-1641.07, § 50-1806, § 50-2201.03, § 50-2301.05, § 50-2354, § 50-2552, § 50-2635, and § 50-2652.

CASE NOTES

Zoning.

Neighborhood group had standing to contest a decision of the District of Columbia Zoning Commission approving a planned unit development (PUD) that involved demolishing and replacing a library because the group adequately alleged injury in fact, as (1) the group's purpose was to protect the current library, (2) the group said a replacement was inadequate, (3) the group's claims were not conclusory, (4) the group's injury was traced to the PUD approval, (5) a court could redress the injury, (6) the group's members did not have to participate, (7) the members' interest was within the D.C. Mun. Regs. tit. 11, §§ 2403.8, 2403.4, and 2602.1, 2606.1 framework, and judicial review was not barred. D.C. Library Renaissance Project/West End Library Advisory Group v. District of Columbia Zoning Comm'n, 73 A.3d 107, 2013 D.C. App. LEXIS 484 (2013).

§ 2-502. Definitions.

As used in this subchapter:

(1)(A) The term "Mayor" means the Mayor of the District of Columbia, or his or her designated agent.

(B) The term "Council" means the Council of the District of Columbia established by § 1-204.01(a) unless the term "District of Columbia Council" is used in which event it shall mean the District of Columbia Council established by subsection (a) of § 201 of Reorganization Plan No. 3 of 1967 (81 Stat. 948).

(2) The term "District" means the District of Columbia.

(3) The term "agency" includes both subordinate agency and independent agency.

(4) The term "subordinate agency" means any officer, employee, office, department, division, board, commission, or other agency of the government of the District, other than an independent agency or the Mayor or the Council,

required by law or by the Mayor or the Council to administer any law or any rule adopted under the authority of a law.

(5) The term "independent agency" means any agency of the government of the District with respect to which the Mayor and the Council are not authorized by law, other than this subchapter, to establish administrative procedures, but does not include the several courts of the District and the Tax Division of the Superior Court.

(6)(A) The term "rule" means the whole or any part of any Mayor's or agency's statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor or of any agency.

(B) The term "rule" does not include any statement for guiding, directing or otherwise regulating vehicular or pedestrian traffic, including any statement controlling parking, standing, stopping or a construction detour; provided, that:

(i) The contents of the statement are indicated to the public on one or more signs, signals, meters, markings or other similar devices located on or adjacent to a street, avenue, road, highway or other public space and are posted on the website of the District Department of Transportation;

(ii) The proposed installation, modification or removal of the statement is based on engineering or other technical considerations;

(iii) The proposed installation, modification or removal of the statement does not involve substantial policy considerations; and

(iv) The Council and the affected Advisory Neighborhood Commissions ("ANC") are provided with 30-days written notice via electronic delivery, excluding Saturdays, Sundays and legal holidays, of an agency's intent to install, modify or remove any of these statements, and any ANC recommendation, if provided, is given great weight pursuant to § 1-309.10.

(7) The term "rulemaking" means Mayor's or agency's process for the formulation, amendment, or repeal of a rule.

(8) The term "contested case" means a proceeding before the Mayor or any agency in which the legal rights, duties, or privileges of specific parties are required by any law (other than this subchapter), or by constitutional right, to be determined after a hearing before the Mayor or before an agency, but shall not include:

(A) Any matter subject to a subsequent trial of the law and the facts de novo in any court;

(B) The selection or tenure of an officer or employee of the District;

(C) Proceedings in which decisions rest solely on inspections, tests, or elections;

(D) Cases in which the Mayor or an agency act as an agent for a court of the District; and

(E) Requests for relief from the requirements of Chapter 26 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR 2600 et seq.), as permitted under that chapter; provided, that such requests shall be approved under such procedures as may be adopted by the Zoning Commission, which procedures need not include a hearing.

(9) The term "person" includes individuals, partnerships, corporations, associations, and public or private organizations of any character other than the Mayor, the Council, or an agency.

(10) The term "party" includes the Mayor and any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any proceeding before the Mayor or an agency, but nothing herein shall be construed to prevent the Mayor or an agency from admitting the Mayor or any person or agency as a party for limited purposes.

(11) The term "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of the Mayor or of any agency in any matter other than rulemaking, but including licensing.

(12) The term "license" includes the whole or part of any permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission granted by the Mayor or any agency.

(13) The term "licensing" includes process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license by the Mayor or an agency.

(14) The term "relief" includes the whole or part of any Mayor's or agency's:

(A) Grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) Recognition of any claim, right, immunity, privilege, exemption, or exception; and

(C) Taking of any other action upon the application or petition of, and beneficial to, any person.

(15) The term "proceeding" means any process of the Mayor or an agency as defined in paragraphs (6), (11), and (12) of this section.

(16) The term "sanction" includes the whole or part of any Mayor's or agency's:

(A) Prohibition, requirement, limitation, or other condition affecting the freedom of any person;

(B) Withholding of relief;

(C) Imposition of any form of penalty or fine;

(D) Destruction, taking, seizure, or withholding of property;

(E) Assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) Requirement, revocation, or suspension of a license; and

(G) Taking of other compulsory or restrictive action.

(17) The term "regulation" means the whole or any part of any District of Columbia Council statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Mayor, District of Columbia Council, or any agency.

(18) The term "public record" includes all books, papers, maps, photographs, cards, tapes, recordings, vote data (including ballot-definition material, raw data, and ballot images), or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of,

or retained by a public body. Public records include information stored in an electronic format.

(18A) The term "public body" means the Mayor, an agency, or the Council of the District of Columbia.

(19) The term "adjudication" means the agency process, other than rulemaking, for the formulation, issuance, and enforcement of an order.

(20) The term "publish" means, for the official publications described in § 2-504, to issue, in print or electronic format, textual or graphic material for sale or distribution to the public.

(Oct. 21, 1968, 82 Stat. 1204, Pub. L. 90-614, § 3; Oct. 8, 1975, D.C. Law 1-19, title I, § 102(b)-(q), 22 DCR 2048; Mar. 29, 1977, D.C. Law 1-96,§ 3(a), (c), (d), 23 DCR 9532b; Apr. 3, 2001, D.C. Law 13-249, § 2, 48 DCR 662; Apr. 27, 2001, D.C. Law 13-283, § 2, 48 DCR 1917; Mar. 14, 2007, D.C. Law 16-275, § 201, 54 DCR 880; Mar. 25, 2009, D.C. Law 17-353, § 162, 56 DCR 1117; Feb. 4, 2010, D.C. Law 18-103, § 3, 56 DCR 9169; Sept. 24, 2010, D.C. Law 18-223, § 1082, 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 6022, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 16, 59 DCR 6190.)

Section references. — This section is referenced in § 2-539, § 2-551, § 2-631, § 2-1831.01, § 4-1303.31, § 6-209, § 8-171.02, § 11-1525, and § 31-633.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added "and are posted on the website of the District Department of Transportation" in (6)(B)(i); and added "via electronic delivery" in (6)(B)(iv).

The 2012 amendment by D.C. Law 19-171 added a comma following "used" in (18).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

CASE NOTES

ANALYSIS

Contested case.
—Selection or tenure public officer or employee, contested case.

Contested case.

— Selection or tenure public officer or employee, contested case.

Police lieutenant's claim for non-chargeable sick leave under the District of Columbia Comprehensive Merit and Personnel Act fell within the selection-or-tenure exception to contested cases under the District of Columbia Administrative Procedure Act, the superior court properly reviewed the District of Columbia Metropolitan Police Department's denial of the lieutenant's request as an exercise of its general jurisdiction, and the appellate court had jurisdiction to review the superior court's resolution of her claim. Nunnally v. D.C. Metro. Police Dep't, 80 A.3d 1004, 2013 D.C. App. LEXIS 794 (2013).

§ 2-505. Public notice and participation in rulemaking; emergency rules.

Section references. — This section is referenced in § 1-309.01, § 1-309.10, § 1-604.05, § 2-1831.05, § 2-1831.09, § 2-1831.11, § 4-301, § 6-1409, § 8-1021, § 8-1305, § 8-1805, § 11-1525, § 25-354, § 28:9-102, § 28:9-109, § 28:9-110, § 28:9-309, § 31-1375.01, § 31-2231.25, § 31-2307, § 31-2502.01, § 32-1109, § 38-303, § 38-1002, § 38-1202.06, § 38-2608, § 47-383, § 47-384, § 47-2501, § 47-3919, § 50-307, and § 50-2301.05.

CASE NOTES

Notice of rulemaking.

Alcohol Beverage Control Board's policy of requiring the appearance of at least five protestants was an interpretive rule that did not require notice and comment under the D.C. Administrative Procedure Act because the Board's "policy" related directly to a rule that justified the proposition, the policy was a matter of internal agency procedure, and the Board retained the authority to permit a good-cause waiver. Recio v. District of Columbia Alcoholic Bev. Control Bd., 75 A.3d 134, 2013 D.C. App. LEXIS 506 (2013).

§ 2-508. Declaratory orders.

CASE NOTES

Judicial review.

Claims by owner of apartment building in petition that it filed with the Water and Sewer Authority (WASA), that it was not liable for tenants' unpaid water bills and that WASA could not file liens on the building for such bills, did not arise from a "contested case," and thus owner was not required by the Administrative Procedure Act (APA) to appeal adverse decision by WASA's hearing officer directly to the Court of Appeals, where owner was not challenging the particulars of water bills, and owner's petition before the WASA focused on questions of law and policy rather than adjudicative facts. Euclid St., LLC v. D.C. Water & Sewer Auth., 41 A.3d 453, 2012 D.C. App. LEXIS 142 (2012).

§ 2-509. Contested cases.

Section references. — This section is referenced in § 3-409, § 3-606, § 7-1231.12, § 7-2036, § 7-2308, § 8-111.06, § 8-113.09, § 8-231.15, § 8-1059, § 8-1308, § 25-354, § 26-704, § 26-706.01, § 26-906, § 26-1204, § 26-1205, § 28-3905, § 31-903, § 31-2102, § 31-2231.23, § 31-2411, § 31-3109, § 31-5238.02, § 31-5608.03, § 32-402, § 32-412, § 34-2305, § 41-125, § 42-3405.08, § 44-413, § 44-1204, § 46-225.01, § 46-226.03, § 47-2844, § 48-108.01, § 50-1301.04, and § 50-1403.01.

CASE NOTES

ANALYSIS

Public utilities.
—Judicial review, generally, public utilities.

Public utilities.

— Judicial review, generally, public utilities.

Claims by owner of apartment building in petition that it filed with the Water and Sewer Authority (WASA), that it was not liable for tenants' unpaid water bills and that WASA could not file liens on the building for such bills, did not arise from a "contested case," and thus owner was not required by the Administrative Procedure Act (APA) to appeal adverse decision by WASA's hearing officer directly to the Court of Appeals, where owner was not challenging the particulars of water bills, and owner's petition before the WASA focused on questions of law and policy rather than adjudicative facts. Euclid St., LLC v. D.C. Water & Sewer Auth., 41 A.3d 453, 2012 D.C. App. LEXIS 142 (2012).

§ 2-510. Judicial review.

Section references. — This section is referenced in § 2-1403.14, § 2-1831.16, § 3-410, § 3-606, § 3-1205.20, § 4-803, § 7-2045, § 8-113.10, § 8-1021, § 11-722, § 17-303, § 17-305, § 26-551.20, § 26-704, § 26-706.01, § 26-1204, § 26-1205, § 28-3905, § 31-714, § 31-903, § 31-2103, § 31-2231.23, § 31-2231.24, § 31-2403, § 31-3153, § 31-3931.20, § 31-5507, § 31-5608.03, § 32-414, § 32-509, § 32-756, § 32-1116, § 32-1117, § 32-1204, § 32-1331.06, § 34-2305, § 41-127, § 42-3405.08, § 42-3405.09, § 44-414, § 44-607, § 44-1003.13, § 46-225.01, § 46-226.03, § 46-226.06, § 47-2853.23, § 48-108.01, § 50-1907, and § 50-2304.05.

CASE NOTES

ANALYSIS

Agency interpretation and application of its rules and regulations.
Contested cases.
—In general.
Labor and employment.
—In general.
—Police and firefighters, labor and employment.
Remedies.
Review of decisions.
—Administrative adjudication, review of decisions.
Workers compensation proceedings.

Agency interpretation and application of its rules and regulations.

Office of Human Rights (OHR) was required to award prejudgment interest on backpay awarded to former Department of Corrections (DOC) employee, who was involved in protracted administrative dispute which spanned 17 years and involved allegations of sexual and racial discrimination, under rule that required agency to take remedial actions when an employee was discriminated against in violation of Human Rights Act (HRA); claimant endured a particularly long and procedurally complicated ordeal, and, thus, interest was particularly appropriate to compensate her for the lost time-value of her recovery. D.C. Office of Human Rights v. D.C. Dep't of Corr., 40 A.3d 917, 2012 D.C. App. LEXIS 139 (2012).

Contested cases.

— In general.

Claims by owner of apartment building in petition that it filed with the Water and Sewer Authority (WASA), that it was not liable for tenants' unpaid water bills and that WASA could not file liens on the building for such bills, did not arise from a "contested case," and thus owner was not required by the Administrative Procedure Act (APA) to appeal adverse decision by WASA's hearing officer directly to the Court of Appeals, where owner was not challenging the particulars of water bills, and owner's petition before the WASA focused on questions of law and policy rather than adjudicative facts. Euclid St., LLC v. D.C. Water & Sewer Auth., 41 A.3d 453, 2012 D.C. App. LEXIS 142 (2012).

Labor and employment.

— In general.

District of Columbia Court of Appeals did not owe deference to decision by Office of Human Rights (OHR) that it had no authority to award prejudgment interest on back pay awarded to a former Department of Corrections (DOC) employee under rule that required agency to take remedial actions when an employee was discriminated against in violation of Human Rights Act (HRA), where OHR's interpretation misapplied accepted interpretive criteria in considering the relevant language in the regulations, its reasoning was logically flawed, and it did not consider the purpose of an interest award on back pay in light of the remedial objective of the DCHRA, and, thus, interpretation was incorrect as a matter of law and unreasonable. D.C. Office of Human Rights v. D.C. Dep't of Corr., 40 A.3d 917, 2012 D.C. App. LEXIS 139 (2012).

— Police and firefighters, labor and employment.

Police lieutenant's claim for non-chargeable sick leave under the District of Columbia Comprehensive Merit and Personnel Act fell within the selection-or-tenure exception to contested cases under the District of Columbia Administrative Procedure Act, the superior court properly reviewed the District of Columbia Metropolitan Police Department's denial of the lieutenant's request as an exercise of its general jurisdiction, and the appellate court had jurisdiction to review the superior court's resolution of her claim. Nunnally v. D.C. Metro. Police Dep't, 80 A.3d 1004, 2013 D.C. App. LEXIS 794 (2013).

Remedies.

Delay by the District of Columbia's Office of Employee Appeals in ruling on former employees' appeals of their terminations did not violate the employees' Fifth Amendment procedural due process rights because the employees

had state procedural remedies to mitigate the prejudice of delay but failed to employ those safeguards; the employees could have sought a writ of mandamus compelling agency action under D.C. Ct. App. R. 21, or, under D.C. Code § 2-510(a)(2), the employees could have petitioned the D.C. Court of Appeals to compel agency action unlawfully withheld or unreasonably delayed. Badgett v. Dist. of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 25044 (D.D.C. Feb. 25, 2013).

Review of decisions.

— Administrative adjudication, review of decisions.

Motorist's application for leave to appeal an administrative adjudication, finding the motorist liable for speeding, was not wrongfully denied because the procedures for administrative adjudication of the motorist's Automated Traffic Enforcement System case provided sufficient due process. Devita v. D.C., 74 A.3d 714, 2013 D.C. App. LEXIS 596 (2013).

Workers compensation proceedings.

ALJ's failure to explain her reasoning in arriving at a seven percent permanent partial disability (PPD) award for workers' compensation claimant's work-related knee injury required remand for ALJ to make such additional findings of fact and reasoned conclusions of law that would support the determination of the disability award. Jones v. D.C. Dep't of Empl. Servs., 41 A.3d 1219, 2012 D.C. App. LEXIS 149 (2012).

In determining an employee's average weekly wage, an administrative law judge's finding that there were, among the 13 pre-injury weeks, four "clearly illness-related" weeks was not supported by substantial evidence because the employee did not meet her burden to show that she was ill for one of the two accrued leave weeks. Kelly v. D.C. Dep't of Empl. Servs., 76 A.3d 948, 2013 D.C. App. LEXIS 635 (2013).

Applied in Padou v. D.C. Alcoholic Bev. Control Bd., 70 A.3d 208, 2013 D.C. App. LEXIS 151 (2013), appeal dismissed by 2013 D.C. App. LEXIS 244 (D.C. Mar. 5, 2013); Clark v. Bridges, 75 A.3d 149, 2013 D.C. App. LEXIS 511 (2013).

Subchapter II. Freedom of Information.

§ 2-532. Right of access to public records; allowable costs; time limits.

Section references. — This section is referenced in § 2-537, § 4-1301.52, § 7-2508.05, § 8-151.08, and § 22-4017.

CASE NOTES

ANALYSIS

Summary judgment.
Time limits.

Summary judgment.

Where a police union filed a records request under the District of Columbia Freedom of Information Act, as there was a genuine issue of material fact as to whether the District properly invoked the deliberative process privilege to redact certain documents, the trial court erred in granting the District summary judgment on that issue. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

Where a police union filed a records request under the District of Columbia Freedom of Information Act, an official's declaration established that the District properly invoked the deliberative process privilege to withhold certain emails, as they were both predecisional and deliberative; therefore, the District was properly granted summary judgment as to that issue. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

Where a police union filed a records request under the District of Columbia Freedom of Information Act, the District should not have been granted summary judgment with respect to the sufficiency of its search, as the declarations did not justify the choices made and the limitations imposed on the search for electronic communications. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

Grant of summary judgment to the District was improper because the trial court erred in determining that it submitted a valid generic determination with respect to its initial response to a union's documents request based on the investigatory exemption; the Vaughn Index the District submitted was insufficient because it contained only one conclusory statement that repeated statutory language, and that did not enable the trial court to assess the propriety of

its decision to withhold material. FOP, Metro. Labor Comm. v. District of Columbia, 82 A.3d 803, 2014 D.C. App. LEXIS 2 (2014).

Grant of summary judgment to the District of Columbia was improper because the question as to whether the District released all non-privileged documents to a union after its initial denial presented genuine issues of material fact, FOP, Metro. Labor Comm. v. District of Columbia, 82 A.3d 803, 2014 D.C. App. LEXIS 2 (2014).

Time limits.

Where a police union filed a records request under the District of Columbia Freedom of Information Act (FOIA), the trial court correctly ruled that the District complied with the time deadline for responding to the request; that the District later disclosed more responsive documents did not mean it disregarded FOIA's time provisions. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

Where an agency has responded in good faith to a District of Columbia Freedom of Information Act (FOIA) request within the time prescribed by FOIA, enabling the requestor to seek relief in court for any perceived deficiencies, the principal purpose of the statutory deadline has been accomplished and the agency has complied with its duty to make a timely response. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

§ 2-534. Exemptions from disclosure.

Section references. — This section is referenced in § 1-301.89a, § 1-309.13, § 1-610.64, § 2-532, § 2-533, § 2-537, § 8-105.09, § 8-634.03, and § 8-1321.

Temporary Amendment of Section.

For temporary (225 days) amendment of this section, see § 2(a) of the Critical Infrastructure Freedom of Information Temporary Amendment Act of 2013 (D.C. Law 20-71, February 22, 2014, 61 DCR 27).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 2(a) of the Critical Infrastructure Freedom of Information Emergency Amendment Act of 2013 (D.C. Act 20-229, November 29, 2013, 60 DCR 16788, 20 DCSTAT 2630).

For temporary (90 days) amendment of this section, see § 2(a) of the Critical Infrastructure Freedom of Information Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-285, February 20, 2014, 61 DCR 1603).

CASE NOTES

ANALYSIS

Inter-agency or intra-agency memoranda.
Invasions of personal privacy.
Investigatory records.
Mootness.
Review.
Summary judgment.

Inter-agency or intra-agency memoranda.

Where a police union filed a records request under the District of Columbia Freedom of Information Act, as there was a genuine issue of material fact as to whether the District properly invoked the deliberative process privilege to redact certain documents, the trial court erred in granting the District summary judgment on that issue. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

Where a police union filed a records request under the District of Columbia Freedom of Information Act, an official's declaration established that the District properly invoked the deliberative process privilege to withhold certain emails, as they were both predecisional and deliberative; therefore, the District was properly granted summary judgment as to that issue. FOP v. District of Columbia, 79 A.3d 347, 2013 D.C. App. LEXIS 779 (2013).

Invasions of personal privacy.

Personal privacy exemption of the Freedom of Information Act, D.C. Code §§ 2-531 to 2-540, exempted from disclosure the names of police department employees who submitted questions or comments to the chief of police via email, as they had greater than a de minimis privacy interest, having relied on the government's pledge of confidentiality. Thus, the District was entitled to redact identifying information before responding to a police officer union's request for copies of the emails. District of Columbia v. FOP, 75 A.3d 259, 2013 D.C. App. LEXIS 602 (2013).

Investigatory records.

Grant of summary judgment to the District was improper because the trial court erred in determining that it submitted a valid generic determination with respect to its initial response to a union's documents request based on the investigatory exemption; the Vaughn Index the District submitted was insufficient because

it contained only one conclusory statement that repeated statutory language, and that did not enable the trial court to assess the propriety of its decision to withhold material. FOP, Metro. Labor Comm. v. District of Columbia, 82 A.3d 803, 2014 D.C. App. LEXIS 2 (2014).

Mootness.

Union's case against the District of Columbia was not moot because the trial court had not determined whether the District sustained its Freedom of Information Act burden by disclosing all of the requested documents to which the union was entitled. FOP, Metro. Labor Comm. v. District of Columbia, 82 A.3d 803, 2014 D.C. App. LEXIS 2 (2014).

Review.

Union did not forfeit its challenge to the adequacy of the disclosures that the District of Columbia made subsequent to its initial response to the union because the union challenged the adequacy of the District's subsequent document production in the trial court and reiterated its position that the District's disclosure was inadequate on appeal. FOP, Metro. Labor Comm. v. District of Columbia, 82 A.3d 803, 2014 D.C. App. LEXIS 2 (2014).

Summary judgment.

Grant of summary judgment to the District of Columbia was improper because the question as to whether the District released all non-privileged documents to a union after its initial denial presented genuine issues of material fact, FOP, Metro. Labor Comm. v. District of Columbia, 82 A.3d 803, 2014 D.C. App. LEXIS 2 (2014).

§ 2-539. Definitions.

Section references. — This section is referenced in § 4-1301.52.

Temporary legislation. — For temporary (225 days) amendment of this section, see § 2(b) of the Critical Infrastructure Freedom of Information Temporary Amendment Act of 2013 (D.C. Law 20-71, February 22, 2014, 61 DCR 27).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 2(b) of the Critical Infrastructure Freedom of Information Emergency Amendment Act of 2013 (D.C. Act 20-229, November 29, 2013, 60 DCR 16788, 20 DCSTAT 2630).

For temporary (90 days) amendment of this section, see § 2(b) of the Critical Infrastructure Freedom of Information Congressional Review Emergency Amendment Act of 2014 (D.C. Act 20-285, February 20, 2014, 61 DCR 1603).

Subchapter III. Legal Publication.

§ 2-560. Certification.

Each part of the District of Columbia Municipal Regulations, each permanent supplement of the District of Columbia Municipal Regulations, and the District of Columbia Register shall contain a certificate by the Administrator stating that such part contains all documents required to be published pursuant to this subchapter as of the date of such certificate.

(Oct. 21, 1968, Pub. L. 90-614, title III, § 310, as added Mar. 6, 1979, D.C. Law 2-153, § 4, 25 DCR 6960; Sept. 20, 2012, D.C. Law 19-168, § 1113, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 deleted "the District of Columbia Statutes-at-Large" following "Each part of."

Legislative history of Law 19-168. — See note to § 2-502.

Subchapter IV. Open Meetings.

§ 2-575. Open meetings.

(a) Except as provided in subsection (b) of this section, a meeting shall be open to the public. A meeting shall be deemed open to the public if:

(1) The public is permitted to be physically present;

(2) The news media, as defined by § 16-4701, is permitted to be physically present; or

(3) The meeting is televised.

(b) A meeting, or portion of a meeting, may be closed for the following reasons:

(1) A law or court order requires that a particular matter or proceeding not be public;

(2) To discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of a contract, including an employment contract, if an open meeting would adversely affect the bargaining position or negotiating strategy of the public body;

(3) To discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating incentives relating to the location or expansion of industries or other businesses or business activities in the District;

(4)(A) To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements; provided, that, upon request, the public body may decide to waive the privilege.

(B) Nothing herein shall be construed to permit a public body to close a meeting that would otherwise be open merely because the attorney for the public body is a participant;

(5) Planning, discussing, or conducting specific collective bargaining negotiations;

(6) Preparation, administration, or grading of scholastic, licensing, or qualifying examinations;

(7) To prevent premature disclosure of an honorary degree, scholarship, prize, or similar award;

(8) To discuss and take action regarding specific methods and procedures to protect the public from existing or potential terrorist activity or substantial dangers to public health and safety, and to receive briefings by staff members, legal counsel, law enforcement officials, or emergency service officials concerning these methods and procedures; provided, that disclosure would endanger the public and a record of the closed session is made public if and when the public would not be endangered by that disclosure;

(9) To discuss disciplinary matters;

(10) To discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials;

(11) To discuss trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained;

(12) To train and develop members of a public body and staff;

(13) To deliberate upon a decision in an adjudication action or proceeding by a public body exercising quasi-judicial functions; and

(14) To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation.

(c)(1) Before a meeting or portion of a meeting may be closed, the public body shall meet in public session at which a majority of the members of the public body present vote in favor of closure.

(2) The presiding officer shall make a statement providing the reason for closure, including citations from subsection (b) of this section, and the subjects to be discussed. A copy of the roll call vote and the statement shall be provided in writing and made available to the public.

(d) A public body that meets in closed session shall not discuss or consider matters other than those matters listed under subsection (b) of this section.

(e) A public body shall not keep the number of attendees below a quorum to avoid the requirements of this section.

(f) Notwithstanding any provision of this chapter, the Council may adopt its own rules to ensure the District's open meetings policy, as established in § 2-572, is met with respect to Council meetings; provided, that the rules of the Council shall comply with this section and the definition of meeting in § 2-574(1); provided further, that until the Council adopts rules pursuant to this subsection, this subchapter shall apply to the Council.

(g) Within 60 days after March 31, 2011, the relevant committee of the Council with jurisdiction on this issue shall submit a report to the Council that presents recommendations on whether the sections of this subchapter should apply to Advisory Neighborhood Commissions.

(Oct. 21, 1968, Pub. L. 90-614, title IV, § 405, as added Mar. 31, 2011, D.C. Law 18-350, § 2, 58 DCR 734; Sept. 26, 2012, D.C. Law 19-171, § 18, 59 DCR 6190.)

Section references. — This section is referenced in § 2-576 and § 2-578.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "with this section" for "with § 2-575" in (f).

Legislative history of Law 19-171. — See note to § 2-502.